93-985

Supreme Court, U.S.
FILED
NOV 12 1993
OFFICE OF THE CLERK

No._____

IN THE

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1993

JOSEPH BENNETT JR.

PETITIONER

V.

INDEPENDENCE BLUE CROSS AND

MANCHESTER INC.

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE JUDGMENT SUPREME COURT OF THE U.S.

PETITION FOR WRIT OF CERTIORARI

PRO SE

JOSEPH BENNETT JR.
312 HENDERSON AVE.
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35 pp

ORIGINAL

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OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C. 20543

Date: 11/01/93

Re: FORCED TO PROCEED PRO SE BY THE ACTIONS OF THE DISTRICT COURTS.

COVER LETTER:

PETITION FOR A WRIT OF CERTIORARI.

Joseph Bennett v. Independence Blue Cross and Manchester, USDC for the Eastern District of Pa. CV No. 92-4249

Appeals Court Third Circuit docket No. 93-1550

Appeals Court Third Circuit docket No. 93-1680

Request for re-hearing for appeals No. 93-1550 and 93-1680

Dear Judges of the Supreme Court:

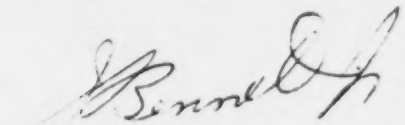
I am not submitting this case PRO SE by choice and I do not expect this court to treat me with the same contempt as the District and Appeals court. Judge McGlynn allowed my counsel to withdraw hoping that I would be discouraged from proceeding. Judge McGlynn refused to appoint counsel and made it impossible for me to be obtain other counsel by his decisions and through intimidation by reputation.

You have the facts, you have the documented truth, you have the arguments, and you have the laws. The absence or presents of an attorney does not change the facts in this or any other case. The absence or presents of an attorney does not make the documented, substantiated truth more or less creditable.

The courts and judges have done everything within their power to block this complaint. The decisions were not based on the information specific to the circumstances in this case and the orders handed down were based on rules of the court that were not used for the purpose they were intended.

Decisions by the courts that are condoning fraud and age discrimination in the work place are making it difficult and costly for an employee to proceed with a discrimination complaint against a company. These bias decisions by the courts are discouraging lawyers from taking age discrimination cases and, therefore, threatening the civil rights of the all older employees. These decisions by the courts that favor the employer, encourage companies to continue this pattern of fraud and age discrimination and are weakening the laws that protect these older employees. The attitude and unwritten policies of the EEOC and the courts that support and protect big business from prosecution for discrimination and make it difficult for employees to pursue their complaints need to be changed.

Sincerely,



Joseph Bennett Jr.

I certify that I have provided a copy of this letter to the people listed below.

President, William Clinton
Congressman, William Hughes
Senator, William Bradley

Bradley T. Beckman
Beckman & Hunt
2900 One Liberty Place 1650 Market Street
Philadelphia, PA 19103-7301

Jeffrey E. Fleming
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103-6993

QUESTIONS PRESENTED

I ASK THAT THE MEMBERS OF THIS COURT KEEP IN MIND THE FOLLOWING QUESTIONS, AS THEY REVIEW THIS LETTER AND OTHER DOCUMENTS RELEVANT TO THIS APPEAL AND THE ORIGINAL COMPLAINT.

Question 1.

DOES FIRING A HIGHLY QUALIFIED 50 YEAR OLD EMPLOYEE AND REPLACING HIM WITH A YOUNGER LESS QUALIFIED PERSON CONSTITUTE AGE DISCRIMINATION AS DESCRIBED BY FEDERAL LAW?

Question 2.

IF TWO PARTIES ENTER INTO A CONTRACT AND PARTY "A" WILLFULLY, WITH INTENT TO DEFRAUD, LIES ABOUT THE CONDITIONS RELATED TO THE CONTRACT AND PUTS INTO PLACE A PLAN THAT CREATES A DECEPTION THAT IS A FRAUD AND USES THE LIES AND DECEPTION TO CONVINCE PARTY "B" TO ENTER INTO THE CONTRACT. IF PARTY "B" CAN PROVE THAT THE LIES AND FRAUD BY

PARTY "A" MADE IT IMPOSSIBLE FOR HIM TO MAKE AN INFORMED DECISION, IS THE CONTRACT VALID AND ENFORCEABLE?

Question 3.

DO YOU BELIEVE THAT A 50 YEAR OLD EMPLOYEE WOULD "KNOWINGLY AND VOLUNTARILY" ENTER INTO AN AGREEMENT THAT WOULD GIVE HIS EMPLOYER THE RIGHT TO FIRE HIM FROM A JOB FOR WHICH HE WAS HIGHLY QUALIFIED, A JOB FOR WHICH HE WAS CONSISTENTLY RATED AS COMMENDABLE, AND A JOB WHICH HE ENJOYED AND NEEDED? "KNOWINGLY AND VOLUNTARILY" GIVE HIS EMPLOYER THE RIGHT TO DISCRIMINATE AGAINST HIM BY REPLACING HIM WITH A YOUNGER LESS QUALIFIED PERSON? DO YOU REALLY BELIEVE THAT A 50 YEAR OLD PERSON WHO WAS GOING THROUGH A DIVORCE AND WHO STILL HAD A CHILD IN COLLEGE WOULD "KNOWINGLY AND VOLUNTARILY" GIVE UP HIS JOB AND ALL THE SECURITY AND BENEFITS THAT JOB PROVIDED, IN EXCHANGE FOR 14 WEEKS OF SALARY AND BENEFITS?

Question 4.

HAVE THE ACTIONS OF THE DISTRICT AND APPEALS COURT DEMONSTRATED BIAS THAT HAS FAVORED THE DEFENDANTS AND HAVE THESE ACTIONS PROVIDED SUPPORT, OPPORTUNITY, AND UNFAIR ADVANTAGE TO THE DEFENDANTS?

Question 5.

WERE THE DECISIONS OF THE DISTRICT AND APPEALS COURT FAIR AND JUST BASED ON THE ACTUAL FACTS AND CIRCUMSTANCES IN THIS CASE?

Question 6.

WAS THE RULE USED BY THE JUDGES TO DENY MY APPEAL USED FOR THE PURPOSE IT WAS INTENDED OR WAS IT ACTIVATED AND USED BY THE JUDGES FOR THE PURPOSE OF SQUASHING THIS COMPLAINT?

LIST OF PARTIES AND COURT DOCKET NUMBERS.

THE PARTIES TO THE PROCEEDINGS BELOW WERE:

JOSEPH BENNETT, PETITIONER.

V. INDEPENDENCE BLUE CROSS AND MANCHESTER,

RESPONDENTS.

COURT DOCKET NUMBERS ARE AS FOLLOWS:

COMPLAINT WITH THE EEOC, PHILADELPHIA PA. OFFICE. CHARGE # 170911048

COMPLAINT WITH THE FEDERAL COURT OF THE EASTERN DISTRICT OF PA. DOCKET No. 92-4249.

APPEAL WITH THE FEDERAL COURT OF THE EASTERN DISTRICT OF PA. DOCKET No. 92-1550.

APPEAL TO THE APPEALS COURT OF THE THIRD CIRCUIT, DOCKET No. 93-1680.

REQUEST FOR RE-HEARING FOR APPEALS TO THE APPEALS COURT OF THE THIRD CIRCUIT, No. 93-1550 AND 93-1680.

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INDEX OF ATTACHMENTS

ATTACHMENT "A":	MEMORANDUM OF DECISION DATED JANUARY 13, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "B":	MEMORANDUM OF DECISION DATED MARCH 2, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "C":	ORDER DATED JUNE 29, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "D":	ORDER DATED AUGUST 12, 1993. STAMPED AUGUST 31, 1993. SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "E":	ORDER DATED AUGUST 12, 1993. STAMPED AUGUST 24, 1993. SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "F-1":	ORDER DATED SEPTEMBER 20, 1993. APPEAL NO. 93-1550 SIGNED BY JUDGE CAROL LOS MANSMANN.

ATTACHMENT "F-2":	ORDER DATED SEPTEMBER 20, 1993. APPEAL NO. 93-1680 SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "G":	EEOC COMPLAINT DATED JUNE 3,1991.
ATTACHMENT "H":	CIVIL COMPLAINT DATED JUNE 22, 1992.
ATTACHMENT "I-1":	LAWYER/BENNETT AGREEMENT DATED JULY 18, 1991.
ATTACHMENT "I-2":	LAWYER NOTES DATED JULY 24, 1992 SUBSTANTIATING MY ALLEGATIONS THAT HE DROPPED THE CASE BECAUSE OF MONEY.
ATTACHMENT "J-1":	LETTER FROM THE COURT DATED JUNE 3, 1993 INDICATING THAT THEY MISTAKENLY SENT THE DECISIONS TO MY FORMER ATTORNEY.
ATTACHMENT "J-2":	LETTER TO THE COURT DATED MAY 1, 1993 INQUIRING WHY A DECISION HAD NOT BEEN MADE.

ATTACHMENT "J-3":	LETTER TO THE COURT DATED MAY 20, 1993 EXPRESSING MY OPINION OF WHAT THE COURT HAD DONE TO DISADVANTAGE ME IN THIS MATTER.
ATTACHMENT "K-1":	LETTER FROM DEFENDANT ATTORNEY DATED MAY 7, 1993 WITH THE WRONG DECISION ATTACHED.
ATTACHMENT "K-2":	LETTER FROM DEFENDANT ATTORNEY DATED MAY 17, 1993 WITH THE CORRECT DECISION ATTACHED.
ATTACHMENT "L":	LETTER TO THE COURT DATED JUNE 18, 1993 REQUESTING EXTENSION OF TIME AS PER INSTRUCTIONS BY THE APPEALS COURT STAFF ATTORNEY.
ATTACHMENT "M-1":	LETTER TO THE APPEALS COURT DATED 06/04/93 ASKING THE APPEALS COURT TO TAKE AUTHORITY IN DECIDING THE VALIDITY OF MY APPEAL. THE DATE WAS WRONG ON THE LETTER. SHOULD HAVE BEEN 07/04/93.

ATTACHMENT "M-2":	LETTER TO THE APPEALS COURT DATED 07/12/93 INDICATING THAT I DID NOT TRUST THAT EVERYTHING I SUBMITTED TO THE DISTRICT COURT WOULD BE MADE AVAILABLE TO THE APPEALS COURT. I WAS THEREFORE SUBMITTING A COMPLETE COPY OF EVERYTHING I HAD IN MY POSSESSION CONCERNING THE CASE.
ATTACHMENT "N-1":	LETTER TO THE APPEALS COURT DATED 08/30/93 REQUESTING A RE-HEARING APPEAL NO 93-1680.
ATTACHMENT "N-2":	LETTER TO THE APPEALS COURT DATED 09/02/93 REQUESTING A RE-HEARING APPEAL NO 93-1550.
ATTACHMENT "X":	TWO COPIES OF THE COMPLETE FILE SUBMITTED TO THE APPEALS COURT.

DEAR JUDGES OF THE SUPREME COURT:

UNTIL YOU READ THIS LETTER AND REVIEW THE MATERIAL AND DOCUMENTS SUBMITTED, IT IS IMPOSSIBLE FOR ANY MEMBER OF THE COURT TO TRULY UNDERSTAND TO WHAT LENGTH THE PEOPLE CHARGED WITH MAKING THE DECISIONS HAVE GONE TO BLOCK THIS COMPLAINT. I FEEL THAT THE ACTIONS WERE TOO' BLATANT TO CHALK THEM UP TO INDIFFERENCE, INEXPERIENCE, OR INCOMPETENTS.

THE DECISIONS AND ORDERS MADE BY THE DISTRICT AND APPEALS COURTS WERE "NOT" BASED ON TRUTH, FACTS, LAW, OR THE ACTUAL CIRCUMSTANCES IN THIS CASE. MAKING YOUR DECISIONS BASED ON THE DECISIONS AND ORDERS OF THE DISTRICT AND APPEALS COURTS WILL BE MAKING DECISIONS BASED ON LIES, HALF TRUTHS, MISTAKES BY THE DISTRICT COURT, AND ACTIONS AND RULES USED BY THE COURTS TO BLOCK THIS COMPLAINT.

I AM REQUESTING THAT THE SUPREME COURT REVIEW THIS LETTER AND OTHER DOCUMENTS CONCERNING THIS CASE BEFORE DECIDING IF THE FOLLOWING DECISIONS AND ORDERS BY THE DISTRICT COURT OF PA. AND THE APPEALS COURT OF THE THIRD CIRCUIT WERE TRUE AND JUST, BASED ON THE INFORMATION AND DOCUMENTS AVAILABLE TO THOSE COURTS.

1. MEMORANDUM OF DECISION DATED JANUARY 13, 1993, SIGNED BY JUDGE JOSEPH L. MCGLYNN OF THE DISTRICT COURT OF PA.
(ATTACHMENT "A")

2. MEMORANDUM OF DECISION DATED MARCH 2, 1993, SIGNED BY JUDGE JOSEPH L. MCGLYNN OF THE DISTRICT COURT OF PA.
(ATTACHMENT "B")

3. ORDER DATED JUNE 29, 1993, SIGNED BY JUDGE JOSEPH L. MCGLYNN OF THE DISTRICT COURT OF PA.

DENYING MY RIGHT TO APPEAL THE DECISIONS BASED ON TIME REQUIREMENT FOR FILING WHICH WAS REDUCED FROM 30 DAYS TO 7 DAYS, AS A RESULT OF ERRORS ON THE PART OF THE DISTRICT COURT.
(ATTACHMENT "C")

4. ORDER DATED AUGUST 12, 1993, STAMPED AUGUST 31, 1993, IN REFERENCE TO APPEAL C.A NO 93-1550, SIGNED BY, JUDGE CAROL LOS MANSMANN, WHICH LISTS THREE JUDGES THAT AGREE WITH THE DISTRICT COURT THAT MY RIGHT TO APPEAL SHOULD BE DENIED REGARDLESS OF THE MISTAKES OF THE DISTRICT COURT.
(ATTACHMENT "D")

5. ORDER DATED AUGUST 12, 1993, STAMPED AUGUST 24, 1993, IN REFERENCE TO APPEAL C.A NO 93-1680, SIGNED BY, JUDGE CAROL LOS MANSMANN, WHICH LISTS THE SAME THREE JUDGES THAT AGREE WITH THE DISTRICT COURT THAT MY RIGHT TO APPEAL SHOULD BE

DENIED REGARDLESS OF THE MISTAKES OF THE DISTRICT COURT.

(ATTACHMENT "E")

6. ORDERS STAMPED SEP 20, 1993 IN REFERENCE TO APPEALS NO 93-1550 AND 93-1680, SIGNED BY JUDGE CAROL LOS MANSMANN, LISTING THIRTEEN JUDGES THAT STILL FEEL THAT MY RIGHT TO APPEAL BE DENIED REGARDLESS OF THE MISTAKES OF THE DISTRICT COURT. (ATTACHMENT "F-1", "F-2)

THE FOLLOWING IS A SUMMARY OF THE MOST RELEVANT EVENTS LEADING UP TO MY APPEAL TO THE SUPREME COURT. A DETAILED AND DOCUMENTED ACCOUNT OF THESE EVENTS CAN BE FOUND IN THE DOCUMENTS AND OTHER MATERIALS SUBMITTED TO THE COURTS.

1. I WAS FIRED FROM MY JOB SEPTEMBER 28, 1990. DOCUMENTED PROOF OF FRAUD AND DISCRIMINATION WAS PROVIDED TO THE COURTS.

2. MY FORMER LAWYER, JOE TUCKER JR., WAS THE LAWYER OF RECORD WHO FILED MY COMPLAINT WITH THE EEOC. HE HAD ACCESS TO, AND WAS FAMILIAR WITH, EVERY DOCUMENT AND ASPECT OF THE CASE. THE EEOC DISMISSED MY COMPLAINT ALONG WITH OTHER COMPLAINTS AGAINST THE COMPANY WITHOUT ANY INVESTIGATION, EVEN THOUGH ALL OF THE COMPLAINTS DESCRIBE THE SAME TREATMENT, FRAUDULENT PRACTICES, AND AGE DISCRIMINATION.

(ATTACHMENT "G") EEOC COMPLAINT.

NOTE: SIX EEOC CASE FILES WERE SUBMITTED TO THE COURT.

3. MY FORMER LAWYER, JOE TUCKER JR., WAS THE LAWYER OF RECORD WHO FILED MY COMPLAINT WITH THE DISTRICT COURT OF PA. AS OF THE FILING OF THE COMPLAINT, WE HAD A GOOD WORKING RELATIONSHIP AND WE WORKED TOGETHER ON THE COMPLAINT THAT WAS FILED. NO DISCOVERY WAS PERFORMED BY THAT ATTORNEY. I PROVIDED ALL DOCUMENTS AND MATERIALS TO THE ATTORNEY.

(ATTACHMENT "H") CIVIL COMPLAINT.

4. ONLY DAYS AFTER MY ATTORNEY FILED THE COMPLAINT WITH THE DISTRICT COURT, HE FILED A MOTION TO BE REMOVED AS COUNSEL. HIS STATEMENTS AT THE HEARING WERE A COMPLETE REVERSAL OF EVERYTHING HE HAD SAID TO ME UNTIL THAT TIME. AT THE HEARING, EVEN WITH ALL OF THE PROOF

AVAILABLE, HE SAID I DIDN'T HAVE A CASE. I TOLD THE JUDGE THAT, BASED ON THE CONVERSATIONS WITH MY LAWYER, I FELT THAT HE WAS DROPPING THE CASE BECAUSE I COULD NOT AFFORD TO CHANGE THE CONTINGENCY AGREEMENT BETWEEN US AND THAT I COULD NOT COME UP WITH THE $4000.00 HE REQUESTED. I READ INTO THE RECORD OTHER INFORMATION RELEVANT TO THE MOTION AND COMPLAINT, BUT THE JUDGE IGNORED MY ARGUMENTS AND RELEASED THE LAWYER FROM HIS RESPONSIBILITIES AND AGREEMENT. BASED ON THE COMMENTS AND QUESTIONS BY THE JUDGE, IT WAS APPARENT THAT HE WAS NOT FAMILIAR WITH ANY OF THE DOCUMENTS OR MATERIALS I HAD SUBMITTED TO THE COURT. THE JUDGE's ATTITUDE TOWARD ME AT THE HEARING WAS ONE OF CONTEMPT. BASED ON THE REMARKS AND GESTURES OF THE JUDGE, HIS DECISION WAS A DONE DEAL EVEN BEFORE I SPOKE AND HE WAS ANNOYED THAT I EVEN CHALLENGED THE DECISION. (ATTACHMENT "I-1" "I-2") AGREEMENT. LAWYER'S NOTES.

NOTE: MOTION, TRANSCRIPT, AND LETTER WERE SUBMITTED TO THE COURT.

5. I CONTACTED A NUMBER OF ATTORNEYS. MOST EXPRESSED FEAR OF THE JUDGE AND NONE WOULD TAKE THE CASE. MOST SAID THAT THE JUDGE WOULD VERY LIKELY FINE THEM $20,000 EVEN BEFORE THEY COULD PUT THE CASE TOGETHER. THEY SAID THAT DISCRIMINATION CASES WERE VERY POLITICAL AND EXTREMELY DIFFICULT TO WIN UNDER THE BEST CONDITIONS. THE QUOTE OF THE AMOUNT OF MONEY I WOULD NEED TO PURSUE THE COMPLAINT WAS ABOUT THE SAME FROM ALL OF THE LAWYERS, AT LEAST $50,000. I WAS UNEMPLOYED AT THE TIME. THEY ALL SAID THAT I HAD DONE A GOOD JOB PUTTING THE DOCUMENTS TOGETHER AND THAT I HAD A VERY GOOD CASE BASED ON THE DOCUMENTS THEY REVIEWED. ONE LAWYER COMMENTED THAT THE JUDGE WAS A REPUBLICAN. BASED ON THE EXPRESSION OF THE LAWYER, I COULD ONLY INTERPRET THE COMMENT AS MEANING THAT THE JUDGES

POLITICAL COMMITMENT WOULD MAKE IT IMPOSSIBLE FOR ME TO WIN THIS CASE. ONE OTHER LAWYER SAID THAT THE JUDGE WOULD NEVER LET THIS CASE GET BY HIM. I INTERPRETED THIS COMMENT, AS MEANING HE WOULD NEVER LET IT GET TO A JURY OF MY PEERS.

6. I SUPPLIED THE COURT WITH A LIST OF ATTORNEYS I CONTACTED AND STATED TO THE COURT THAT IT WAS IMPOSSIBLE FOR ME TO GET ANOTHER ATTORNEY. I SUBMITTED A REQUEST FOR APPOINTMENT OF COUNSEL THE COURT NEVER ACKNOWLEDGED OR RULED ON MY REQUEST FOR APPOINTMENT OF COUNSEL.

7. I REQUESTED THAT THE COURT SCHEDULE A HEARING TO DISCUSS A SETTLEMENT OF THE COMPLAINT. ALL I WANTED, FROM THE BEGINNING, WAS TO BE REINSTATED IN MY OLD JOB. IBC STATED BEFORE THE FIRING, THAT MY JOB WAS BEING ELIMINATED AND THERE WERE NO OTHER JOB OPENINGS WHERE THEY COULD

UTILIZE MY SKILLS. MY JOB WAS NOT ELIMINATED. THE COURT NEVER ACKNOWLEDGED OR RULED ON MY REQUEST FOR A HEARING.

8. THE LAWYERS FOR THE DEFENDANTS REQUESTED A HEARING AND THE HEARING WAS SCHEDULED FOR DECEMBER 11, 1992. AT THE HEARING, THE JUDGE WAS COURTEOUS TO THE LAWYERS FOR THE DEFENDANTS AND ALLOWED THEM TO READ AND SPEAK FOR THE RECORD EVEN THOUGH NOTHING THEY SAID WAS ACTUALLY RELATED TO THE FACTS PRESENTED IN THE CASE. WHEN I WANTED TO READ AND SPEAK FOR THE RECORD, THE JUDGE INTERRUPTED ME AND REFUSED TO ALLOW ME TO SPEAK. I SUBMITTED A WRITTEN DOCUMENT CONTAINING WHAT I WANTED TO SAY, AFTER THE FACT, SO THAT IT WOULD BE PART OF THE RECORD FOR THAT HEARING. BASED ON MY QUESTIONS AND CONVERSATION WITH THE JUDGE AT THAT HEARING, IT WAS APPARENT THAT HE HAD NOT REVIEWED THE CASE FILE BEFORE THE HEARING.

NOTE: A COPY OF TRANSCRIPT AND LETTER WERE SUBMITTED TO THE COURTS.

9. I CALLED THE CLERK ABOUT THE STATUS OF THE JUDGES DECISION A NUMBER OF TIMES, BUT COULD NOT GET ANY INFORMATION. SOMETIME DURING THE LAST WEEK OF APRIL 1993, I TALKED TO A LAWYER WHO WAS LOOKING AT MY CASE AND TOLD HIM THAT I COULDN'T GET INFORMATION CONCERNING THE STATUS OF MY CASE. HE SUGGESTED THAT I REQUEST A DOCKET AND SEND A LETTER TO THE COURT REQUESTING THE INFORMATION. ON APRIL 30, 1993 I WROTE A LETTER TO THE COURT REQUESTING A DOCKET. ABOUT THREE WEEKS LATER, I RECEIVED THE DOCKET.

11. ON MAY 1, 1993, I WROTE A LETTER TO THE COURT ASKING THEM TO RESPOND AND LET ME KNOW WHY IT WAS TAKING THEM SO LONG TO MAKE A DECISION IN THIS CASE. BY MAY 20th, I STILL HAD NOT RECEIVED A RESPONSE FROM THE COURT, SO I WROTE ANOTHER

LETTER. THE COURT DID NOT DRAFT A RESPONSE TO MY LETTERS UNTIL THE DAY I FILED MY APPEAL ON JUNE 3, 1993. I RECEIVED THAT LETTER AROUND JUNE 5th. THE LETTER FROM THE COURT ONLY MADE MENTION OF MY MAY 20TH LETTER WHICH WOULD LEAD ANYONE READING THE LETTER TO BELIEVE THAT THE LETTER FROM THE COURT WAS TIMELY. THERE WAS NO MENTION OF MY MAY 1st LETTER TO THE COURT.

THE LETTER STATED THAT THE JANUARY AND MARCH DECISIONS WERE SENT TO MY FORMER ATTORNEY IN ERROR. I CHECKED WITH THE FIRM AND THEY DID NOT RECEIVE EITHER DECISION.

(ATTACHMENT "J-1", J-2, J-3) LETTER FROM THE COURT, LETTER MAY 1st, LETTER MAY 20th.

12. AS A RESULT OF MY LETTER TO THE COURT DATED MAY 1, 1993, (I COPIED THE ATTORNEYS FOR THE DEFENDANTS ON EVERYTHING I SUBMITTED TO THE COURT), I RECEIVED A LETTER FROM THE LAWYER FOR IBC STATING THAT THEY HAD RECEIVED THE DECISIONS

MONTHS AGO. ATTACHED TO THAT LETTER WAS THE WRONG DECISION. A FEW DAYS LATER, MAY 19, 1993, I RECEIVED ANOTHER LETTER CONTAINING THE CORRECT DECISION.

(ATTACHMENTS "K-1", "K-2") LETTERS FROM THE ATTORNEY.

13. THIS WAS MY FIRST ACCESS TO THESE DECISIONS. I HAVE REVIEWED THE DECISIONS OF JUDGE MCGLYNN AND NONE OF THE CASES USED IN HIS ARGUMENTS PARALLEL THE CIRCUMSTANCES IN THIS CASE. THESE DECISIONS LOOK LIKE, NOTHING MORE THAN, EXTRACTS FROM MATERIAL SUBMITTED BY THE DEFENDANTS. THE FACT THAT THE JUDGE USED "KNOWINGLY AND VOLUNTARILY" IN ONE OF HIS DECISIONS JUST REINFORCES MY POSITION THAT THE DECISIONS WERE NOT BASED ON TRUTH, FACT, OR EVEN COMMON SENSE.

14. BETWEEN MAY 19th AND JUNE 3rd, I PUT

TOGETHER 6 COPIES, ORGANIZED AND INDEXED, OF ALL OF THE DOCUMENTS CONCERNING THE CASE. I THOUGHT THAT THE COURT NEEDED AN ORIGINAL AND THREE COPIES OF THESE DOCUMENTS ATTACHED TO THE APPEAL AT THE TIME IT WAS SUBMITTED. I UNDERSTOOD THAT THE DOCUMENTS WERE REQUIRED BASED ON A CONVERSATION WITH ONE OF THE LAWYERS THAT LOOKED AT MY CASE.

15. ON JUNE 3, 1993, 15 DAYS AFTER RECEIVING A COPY OF THE DECISIONS FROM THE ATTORNEY FOR THE DEFENDANTS, I FILED MY APPEAL WITH THE DISTRICT COURT. AT THAT TIME, THEY TOLD ME THAT THE OTHER MATERIALS (AN ORIGINAL AND THREE COPIES OF ALL OF THE DOCUMENTS IN MY POSSESSION) WAS NOT REQUIRED AT THAT TIME. I LATER SUBMITTED THESE COPIES TO THE APPEALS COURT. I ALSO FOLLOWED THE RULES OF THE DISTRICT COURT AND SUBMITTED A COPY TO EACH OF THE ATTORNEYS FOR THE DEFENDANTS.

(ATTACHMENT "X"): ONE COPY WAS SUBMITTED TO THIS

COURT.

16. THE STAFF ATTORNEY AT THE APPEALS COURT INSTRUCTED ME TO SUBMIT A REQUEST FOR AN EXTENSION OF TIME, AFTER THE FACT, STATING IN THAT REQUEST THE MITIGATING CIRCUMSTANCES CONCERNING THE FILING OF THE APPEAL. I SUBMITTED THE LETTER REQUESTING AN EXTENSION OF TIME, DETAILING THE EVENTS AND MY ARGUMENTS. A FEW DAYS LATER A SECOND APPEAL WAS SUBMITTED BY SOMEONE FROM THE APPEALS COURT IN MY BEHALF. I DIDN'T UNDERSTAND THE REASON FOR ANOTHER APPEAL OR WHY I HAD TO PAY ANOTHER $104.00, BUT I PAID THE MONEY ANYWAY.

(ATTACHMENTS "L") LETTER REQUESTING EXTENSION OF TIME.

17. THE DISTRICT COURT TURNED DOWN MY APPEAL BECAUSE THEY SAID IT WASN'T TIMELY. I WAS GIVEN A RULE THAT SAID, IF I DIDN'T RECEIVE THE

DECISIONS FROM THE COURT, THAT THE TIME I HAD TO APPEAL WAS REDUCED FROM 30 DAYS TO 7 DAYS FROM THE TIME I BECAME AWARE OF THE DECISIONS. I DO NOT HAVE A LAWYER, A COPY MACHINE, SECRETARY OR OTHER RESOURCES THAT ARE AVAILABLE TO AN ATTORNEY. I AM DOING THIS WITH ONLY THE HELP OF MY WIFE. IT IS UNREASONABLE TO THINK THAT A LAY PERSON WOULD KNOW ABOUT SOME RULE THAT, UNDER SPECIFIC CIRCUMSTANCES, THE TIME TO FILE IS REDUCED FROM 30 TO 7 DAYS. THE APPEALS FORM AND THE 6 COPIES CONTAINING EVERY PIECE OF PAPER IN MY POSSESSION RELEVANT TO THIS CASE WAS READY WITHIN 15 DAYS OF BECOMING AWARE OF THE DECISIONS. I FEEL THAT, GETTING THE APPEAL FILED IN 15 DAYS WAS A REASONABLE TIME FRAME CONSIDERING THAT I AM NOT AN ATTORNEY, THE MISTAKES WERE MADE BY THE DISTRICT COURT, AND THAT 15 DAYS IS ONLY HALF OF THE ORIGINAL 30 DAY REQUIREMENT. IF 90 DAYS IS CONSIDERED A REASONABLE TIME TO SUBMIT AN APPEAL TO THE

SUPREME COURT, WHY SHOULD 15 DAYS NOT BE AN ACCEPTABLE TIME TO FILE AN APPEAL WITH THE DISTRICT COURT?

(ATTACHMENTS "C") DECISION ON APPEAL.

18. I WROTE THE APPEALS COURT EXPLAINING THAT THE DISTRICT COURT HAD TURNED DOWN MY APPEAL AND THAT I DID NOT THINK IT WAS FAIR THAT I WAS DEPRIVED OF MY RIGHT TO APPEAL BECAUSE OF THE MISTAKES OF THE DISTRICT COURT. I GAVE THEM A DETAILED ACCOUNT OF THE CIRCUMSTANCES THAT REDUCED THE NUMBER OF DAYS TO FILE THE APPEAL FROM 30 to 7 DAYS.

(ATTACHMENTS "M-1" "M-2") LETTERS TO APPEALS COURT. NOTE LETTER DATED 06/04/93 SHOULD HAVE BEEN DATED 07/04/93.

19. THE APPEALS COURT TURNED DOWN BOTH APPEALS, THE ONE I SUBMITTED AND THE ONE SUBMITTED BY THE APPEALS COURT STAFF ATTORNEYS OFFICE. THE THREE

JUDGES SAID THEY AGREED WITH THE DISTRICT COURTS DECISION THAT I SHOULD BE DEPRIVED OF MY RIGHT TO APPEAL BECAUSE THE APPEAL WAS NOT FILED WITHIN THE REDUCED TIME OF 7 DAYS EVEN THOUGH THE TIME WAS REDUCED AS A RESULT OF ERRORS BY THE DISTRICT COURT.

(ATTACHMENTS "D" "E") ORDERS CONCERNING APPEALS 93-1550 AND 93-1680.

20. I REQUESTED A RE-REVIEW OF THE APPEALS AND ORDERS BY ALL OF THE JUDGES OF THE APPEALS COURT. I WAS NOT SATISFIED THAT THE THREE JUDGES FROM THE APPEALS COURT LISTED AS "PRESENT" EVER LOOKED AT THE MATERIALS SUBMITTED BY THE STAFF ATTORNEYS OFFICE. THERE WAS NO REFERENCE TO ANY OF THE MATERIAL SUBMITTED AND ONLY ONE JUDGE, CAROL LOS MANSMANN, WROTE (7 lines. LESS THAN 40 WORDS.) AND SIGNED THE ORDER FOR APPEAL 93-1680. THE REST OF THE DOCUMENT WAS A FORM LETTER AND INSTRUCTIONS.

21. THE ORDER (APPEAL 93-1550) SIGNED BY JUDGE, CAROL LOS MANSMANN, WAS SIMILAR TO THE ORDER (APPEAL 93-1680) EXCEPT THAT IT CONTAINED LESS LINES, WORDS, AND INSTRUCTIONS. AGAIN, THERE WAS NO REFERENCE TO ANYTHING PERTAINING TO THE MATERIAL SUBMITTED BY THE STAFF ATTORNEYS OFFICE AND NO INDICATION THAT ANY OF THE JUDGES "PRESENT" REVIEWED THE MATERIALS SUBMITTED. (ATTACHMENTS "N-1" "N-2") LETTERS REQUESTING RE-HEARINGS.

22. THE TWO ORDERS STAMPED SEP 20, 1993 FOR APPEAL 93-1550 AND 93-1680 SIGNED BY JUDGE CAROL LOS MANSMANN, WERE EXACTLY IDENTICAL EXCEPT FOR THE APPEAL NUMBERS. THESE ORDERS WERE WORDED IN THE SAME EVASIVE LANGUAGE AS THE EARLY ORDERS. WHAT DOES "ALL AVAILABLE JUDGES" MEAN. A MAJORITY OF WHICH JUDGES DID NOT VOTE FOR A REHEARING. AGAIN, THERE IS NO INDICATION THAT ANY OF THE JUDGES REVIEWED THE MATERIAL SUBMITTED BY

THE STAFF ATTORNEYS OFFICE. YOU READ THE ORDERS AND DETERMINE IF IT ADDRESSES THE REQUEST FOR A RE-HEARING OF THE ORDERS ISSUED BY THE DISTRICT AND APPEALS COURT CONCERNING MY APPEAL BASED ON MY ARGUMENTS SUBMITTED WITH THE REQUEST. (ATTACHMENTS "F-1 F-2") ORDERS CONCERNING RE-REVIEW OF APPEALS 93-1550 AND 93-1680.

REASON FOR GRANTING WRIT

A. MY LAWYER WAS RELEASED BY THE COURT WITHOUT RESEARCHING THE VALIDITY OF THE LAWYERS MOTION.

C. JUDGE WAS NOT FAMILIAR WITH THE DOCUMENTS SUBMITTED TO THE COURT WHEN HE PRESIDED OVER EITHER OF THE TWO HEARINGS HELD IN THIS CASE.

B. JUDGE DID NOT ACKNOWLEDGE OR RULE ON THE MOTIONS SUBMITTED TO THE COURT BY THE PLAINTIFF.

D. DECISIONS WERE NOT BASED ON SIMILAR COURT CASES, THE LAW, REASONABLE ASSUMPTIONS, OR THE FACTS PRESENTED IN THE CASE.

E. JUSTIFICATION FOR ORDERS DENYING MY RIGHT TO APPEAL WERE NOT VALID BECAUSE OF THERE IS A STRONG INDICATION THAT THE COURT INTENTIONALLY WITHHELD THE DECISIONS FROM THE PLAINTIFF SO THAT THE RULE THAT REDUCED THE TIME TO APPEAL FROM 30 TO 7 DAYS WOULD BE ACTIVATED. EVEN IF THE COURT DID NOT INTENTIONALLY WITHHOLD THE DECISIONS FROM ME, THE COURT DID ERROR AND LIED TO COVER UP THE ERROR BY STATING THAT THEY SENT THE DECISIONS TO MY FORMER ATTORNEY.

CONCLUSION

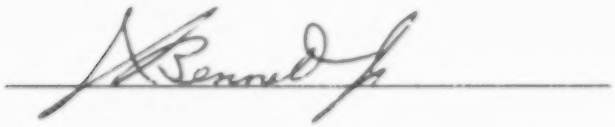
I AM ONLY ASKING FOR A JUST DECISION BASED ON THE FACTS IN THIS CASE AND THE LAW. I AM NOT A LAWYER AND I COULD NOT INCLUDE A LONG LIST OF RULES, LAWS, OR OTHER LEGAL REFERENCES. WHAT I DID PROVIDE WAS THE DOCUMENTED TRUTH IN THIS MATTER.

THE DISTRICT AND APPEALS COURT JUDGES, BY THEIR ACTIONS, HAVE DEMONSTRATED THAT THEY CAN NOT RENDER A JUST AND IMPARTIAL DECISION IN ANY MATTER CONCERNING THIS COMPLAINT. MY RIGHT TO FAIR AND JUST TREATMENT HAS BEEN VIOLATED BY THE ACTIONS OF THE JUDGES OF THESE COURTS. I AM ASKING THE SUPREME COURT NOT TO BASE THEIR DECISION ON RULES, POLITICAL COMMITMENT, OR BASELESS, BIAS, DECISIONS AND ORDERS MADE BY THE JUDGES OF THE DISTRICT AND APPEALS COURTS.

REQUEST TO THE COURT

THERE IS A CLEAR INDICATION THAT THE DECISIONS BY THE JUDGES WERE NOT IMPARTIAL AND THERE IS A STRONG POSSIBILITY THAT FUTURE DECISIONS COULD BE INFLUENCED BY PEER PRESSURE TO SUPPORT THE JUDGES WHO MADE THESE DECISIONS, I AM ASKING THE COURTS TO RELINQUISH THEIR RIGHT TO DECIDE THIS CASE AND IMPANEL A JURY OF MY PEERS FOR THE PURPOSE OF DECIDING THIS FRAUD AND DISCRIMINATION COMPLAINT. I AM ALSO REQUESTING THAT THE SUPREME COURT RULE IN FAVOR OF MY MOTION FOR APPOINTMENT OF COUNSEL SO THAT I CAN BE PROPERLY REPRESENTED AND MY RIGHTS BE PROTECTED IN THIS MATTER.

I, Joseph Bennett Jr, certify that I have provided a copy of this letter to the attorneys listed below. A copy of the supporting attachments was previously provided, therefore, a copy of these attachments was not included with the letter to the attorneys.



Bradley T. Beckman
Beckman & Hunt
2900 One Liberty Place 1650 Market Street
Philadelphia, PA 19103-7301

Jeffrey E. Fleming
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103-6993

93-985

(2)

Supreme Court, U.S.
FILED
NOV 12 1993
OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1993

JOSEPH BENNETT JR.

PETITIONER

V.

INDEPENDENCE BLUE CROSS AND

MANCHESTER INC.

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE JUDGMENT SUPREME COURT OF THE U.S.

APPENDIX (1) of (2) TO

PETITION FOR WRIT OF CERTIORARI

PRO SE

JOSEPH BENNETT JR.
312 HENDERSON AVE.
MILLVILLE, N.J. 08332
PHONE 609-825-5388

73pp

ORIGINAL

Joseph Bennett Jr.
312 Henderson Ave.
Millville, N.J. 08332
Phone 609-825-5388

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C. 20543

Date: 12/09/93

Re: APPENDIX REDUCED TO SIZE SET BY COURT RULES.

NEW INFORMATION CONCERNING A PATTERN OF FRAUD AND AGE DISCRIMINATION BY IBC AS A RESULT OF A SUBPOENA ISSUED TO ME BY THE DEFENDANT ON NOVEMBER 23, 1993 FOR DEPOSITION IN ANOTHER SIMILAR AGE DISCRIMINATION COMPLAINT 93-CV-2528.

REQUEST THAT THE JUDGES OF THE COURT EXCEPT ONE COPY OF ENTIRE COURT FILE IN IT'S ORIGINAL FORM BECAUSE THE COURT DOCKET DID NOT LIST ALL DOCUMENTS SUBMITTED TO THE COURTS. (RELEVANT AND NECESSARY CONCERNING THE ATTITUDE AND ACTION OF THE LOWER COURTS).

PETITION FOR A WRIT OF CERTIORARI.

Joseph Bennett v. Independence Blue Cross and Manchester, USDC for the Eastern District of Pa. CV No. 92-4249

Appeals Court Third Circuit docket No. 93-1550

Appeals Court Third Circuit docket No. 93-1680

Request for re-hearing for appeals No. 93-1550 and 93-1680

Dear Court Clerk:

Thank you for your help and sample petitions. Enclosed you will find the appendix reduced in size to conform to the court rules.

THIS LETTER IS IMPORTANT PART OF MY CASE (copy in appendix 1 of 2) and I request that it be submitted to the Judges concerning a decision to except one copy of my records (duplicate copy of documents submitted to the courts.) IN THEIR ORIGINAL FORM.

It is also important that the Judges read this letter because only days after submitting my PETITION FOR A WRIT OF CERTIORARI to the U.S. Supreme Court, an attorney for IBC served me with a SUBPOENA FOR DEPOSITION IN A SIMILAR AGE DISCRIMINATION COMPLAINT AGAINST THEM, CASE NUMBER 93-CV-2528, (See letters attached).

In becoming aware of this new complaint against IBC, I can SEE HOW DISADVANTAGED I WAS by the District Court when they took away my counsel and deprived me of the opportunity to use the discovery process to show that Fraud has become common place in IBC's continuing efforts to reduce the number of older employees.

Because my request to the court includes a review of the actions of the lower courts, it is relevant and necessary to send one copy of all documents submitted to the lower courts IN THEIR ORIGINAL FORM to insure that this court has access to all documents as they were submitted to those courts. I feel this is necessary and relevant because the DOCKET DID NOT LIST ALL OF THE DOCUMENTS I SUBMITTED to the District Court and my inquiry to the Appeals Court leads me to believe that DOCUMENTS SIGNED IN BY THAT COURT remained in the possession of the Staff Attorneys Office and DID NOT BECOME PART OF MY FILE IN THAT COURT. I feel it is also necessary and relevant because the District Court lied to cover up mistakes and I feel they will continue to do whatever they deem necessary TO COVER UP THEIR ACTIONS and to prevent this case from going to trial.

I have also enclosed one copy of the original appendix used as a source to produce the 40 copies of the 6 X 9 appendix 1 of 2 and 2 of 2. It was very difficult to reduce the size and still maintain readability.

Sincerely,

Joseph Bennett Jr.

I certify that I have provided a copy of this letter, attachments(not already provided), and new appendix to the attorneys listed below.

Bradley T. Beckman
Beckman & Hunt
2900 One Liberty Place 1650 Market Street
Philadelphia, PA 19103-7301

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COUNSELORS AT LAW
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NEW YORK
MIAMI
PRINCETON
BRUSSELS

WASHINGTON
LOS ANGELES
HARRISBURG
LONDON
FRANKFURT
TOKYO

November 23, 1993

Joseph Bennett
312 Henderson Avenue
Millville, NJ 08332

Re: Horgan v. Independence Blue Cross, et al.

Dear Mr. Bennett:

Pursuant to our recent telephone conversations, I have enclosed a subpoena and witness fee for your appearance at a deposition on Wednesday, January 12, 1994 in the above-referenced case.

Should you have any questions, please contact Sarah Kelly (963-5473) or me (963-5563).

Very truly yours,

Lisa W. Hoffman

Lisa W. Hoffman
Paralegal

cc: Steven R. Wall, Esquire
Sarah A. Kelly, Esquire
Julie A. Uebler, Esquire
John W. Wiggins, Esquire
Mr. Robert Schwartz
David Kraut, Esquire

INDEX TO APPENDIX

ATTACHMENT "A": Page A-1 (1) OF (2)	MEMORANDUM OF DECISION DATED JANUARY 13, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "B": Page B-1 (1) OF (2)	MEMORANDUM OF DECISION DATED MARCH 2, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "C": Page C-1 (1) OF (2)	ORDER DATED JUNE 29, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "D": Page D-1 (1) OF (2)	ORDER DATED AUGUST 12, 1993. STAMPED AUGUST 31, 1993. SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "E": Page E-1 (1) OF (2)	ORDER DATED AUGUST 12, 1993. STAMPED AUGUST 24, 1993. SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "F-1": Page F1-1 (1) OF (2)	ORDER DATED SEPTEMBER 20, 1993. APPEAL NO. 93-1550 SIGNED BY JUDGE CAROL LOS MANSMANN.

ATTACHMENT "F-2": Page F2-1 (1) OF (2)	ORDER DATED SEPTEMBER 20, 1993. APPEAL NO. 93-1680 SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "G": Page G-1 (1) OF (2)	EEOC COMPLAINT DATED JUNE 3,1991.
ATTACHMENT "H": Page H-1 (2) OF (2)	CIVIL COMPLAINT DATED JUNE 22, 1992.
ATTACHMENT "I-1": Page I1-1 (2) OF (2)	LAWYER/BENNETT AGREEMENT DATED JULY 18, 1991.
ATTACHMENT "I-2": Page I2-1 (2) OF (2)	LAWYER NOTES DATED JULY 24, 1992 SUBSTANTIATING MY ALLEGATIONS THAT HE DROPPED THE CASE BECAUSE OF MONEY.
ATTACHMENT "J-1": Page J1-1 (2) OF (2)	LETTER FROM THE COURT DATED JUNE 3, 1993 INDICATING THAT THEY MISTAKENLY SENT THE DECISIONS TO MY FORMER ATTORNEY.
ATTACHMENT "J-2": Page J2-1 (2) OF (2)	LETTER TO THE COURT DATED MAY 1, 1993 INQUIRING WHY A DECISION HAD NOT BEEN MADE.

ATTACHMENT "J-3": Page J-1 (2) OF (2)	LETTER TO THE COURT DATED MAY 20, 1993 EXPRESSING MY OPINION OF WHAT THE COURT HAD DONE TO DISADVANTAGE ME IN THIS MATTER.
ATTACHMENT "K-1": Page K1-1 (2) OF (2)	LETTER FROM DEFENDANT ATTORNEY DATED MAY 7, 1993 WITH THE WRONG DECISION ATTACHED.
ATTACHMENT "K-2": Page K2-1 (2) OF (2)	LETTER FROM DEFENDANT ATTORNEY DATED MAY 17, 1993 WITH THE CORRECT DECISION ATTACHED.
ATTACHMENT "L": Page L-1 (2) OF (2)	LETTER TO THE COURT DATED JUNE 18, 1993 REQUESTING EXTENSION OF TIME AS PER INSTRUCTIONS BY THE APPEALS COURT STAFF ATTORNEY.
ATTACHMENT "M-1": Page M1-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 06/04/93 ASKING THE APPEALS COURT TO TAKE AUTHORITY IN DECIDING THE VALIDITY OF MY APPEAL. THE DATE WAS WRONG ON THE LETTER. SHOULD HAVE BEEN 07/04/93.

ATTACHMENT "M-2": Page M2-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 07/12/93 INDICATING THAT I DID NOT TRUST THAT EVERYTHING I SUBMITTED TO THE DISTRICT COURT WOULD BE MADE AVAILABLE TO THE APPEALS COURT. I WAS THEREFORE SUBMITTING A COMPLETE COPY OF EVERYTHING I HAD IN MY POSSESSION CONCERNING THE CASE.
ATTACHMENT "N-1": Page N1-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 08/30/93 REQUESTING A RE-HEARING APPEAL NO 93-1680.
ATTACHMENT "N-2": Page N2-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 09/02/93 REQUESTING A RE-HEARING APPEAL NO 93-1550.
ATTACHMENT "X": SEE INDEX PAGE v. (1) OF (2)	ONE COPY OF THE COMPLETE FILE SUBMITTED TO THE APPEALS COURT.(NOT RETYPED OR REDUCED IN SIZE).

INDEX FOR COPY OF COMPLETE FILE

SUBMITTED TO THE APPEALS COURT

INDEX OF DOCUMENTS PROVIDED:

Docket:

NOTE THAT MY LETTER TO THE COURT DATED 10/27/92 WAS NOT INCLUDED. (See Plaintiff CORR FOR THAT DATE).

COMPLAINT:

FILED WITH THE COURT BY MY FORMER ATTORNEY, MR. JOSEPH TUCKER. ACCORDING TO ATTORNEYS WHO REVIEWED THE COMPLAINT, IT IS CONFUSING AND DOES NOT MEET THE COURT REQUIREMENTS RELATED TO FRAUD. I AM REQUESTING THAT THE COURT ALLOW THIS COMPLAINT TO BE AMENDED TO MEET THE REQUIREMENTS OF THE COURT.

FRAUD:

PENNSYLVANIA SUPREME COURTS INTERPRETATION OF FRAUD FROM JUDGE MCGLYNNS MEMORANDUM OF DECISION DATED MARCH 2, 1993. THE ACTIONS OF IBC MEET JUST ABOUT EVERY INTERPRETATION OF FRAUD IN THIS STATEMENT BY THE PENNSYLVANIA SUPREME COURT.

DETAIL ACCOUNT:

MY LETTERS TO THE EEOC AND MY FORMER LAWYER DESCRIBING, IN DETAIL, THE EVENTS THAT TOOK PLACE PRIOR TO AND AFTER THE FIRING OF THE 39 IBC EMPLOYEES.

TRANSFER/PROBLEMS:

LETTERS AND MEMOS CONCERNING MY TREATMENT AND TRANSFER JUST BEFORE I WAS FIRED.

PRESS RELEASES:

NEWSPAPER ARTICLES RELEASED TO THE PRESS BY CEO, MR. FRED DIBONA STATING THAT OUR JOBS WERE BEING ELIMINATED, THAT WE WERE NOT QUALIFIED, AND IT WAS NOT AN OPTION TO RETRAIN US. NOTE MY GRADES (A'S) "C" AND ADVANCED "C". THE SKILL REQUIRED FOR THIS NEW TECHNOLOGY.

PERFORMANCE REVIEW:

ON A SCALE OF 1 TO 5 WITH 5 BEING THE HIGHEST REVIEW, I WAS CONSISTENTLY EVALUATED AT A 4 (COMMENDABLE) FOR MY ENTIRE 10 YEARS AT IBC.

SALARY INFO:

LAST PAY CHECK AND W2 TAX FORMS.

Q & A SESSIONS:

THIS DOCUMENTS SHOWS THAT IBC HAS TRAINING PROGRAMS IN EVERY AREA OF THE COMPANY. IBC CONTINUES TO TRAIN IT'S EMPLOYEES EVEN IN THE NEW SKILLS THAT THEY SAID WAS NOT AN OPTION IN THE CASE OF THE 39 FIRED EMPLOYEES.

HELP WANTED:

POSTING AND HELP WANTED ADDS ADVERTISING FOR PEOPLE WITH THE SAME SKILLS AS THE FIRED EMPLOYEES. NOTE THAT IBC WAS FILLING MY JOB ONLY DAYS AFTER THE FIRING USING THE SAME AGENCY I WAS USING TO FIND A JOB. THE REQUIREMENTS FOR THE POSITION DID NOT INCLUDE ANY OF THE NEW SKILLS.(SEE ONLINE CAREER SEARCH INC. NOTES)

LETTER TO EEOC:

LETTER WRITTEN TO THE EEOC BY MR. WILLIAM J. BLOUNT. THE STATEMENTS IN THESE LETTERS WERE REPEATED OVER AND OVER AGAIN BY IBC MANAGEMENT. JOBS WERE NOT ELIMINATED AND THE SAME TECHNOLOGY THAT WAS BEING USED BEFORE THE FIRING IS STILL BEING USED BY THE PROCESSING SYSTEMS AT IBC.

EEOC FILES:

A COPY OF THE COMPLAINTS AGAINST IBC BY MYSELF AND OTHER EMPLOYEES. THERE COULD BE MORE COMPLAINTS, BUT WITHOUT THE HELP OF AN ATTORNEY, I WAS UNABLE TO GET ANY MORE INFORMATION. (UNDER SEPARATE COVER BECAUSE OF THE NUMBER OF PAGES.)

AFFIDAVITS:

AFFIDAVITS PROVIDED TO THE COURT FROM ONLY TWO OF THE FORMER EMPLOYEES WHO WERE FIRED BY IBC AS PART OF THE SAME GROUP OF 39 EMPLOYEES. I HAVE TALKED TO A NUMBER OF OTHER FORMER EMPLOYEES AND I GUARANTEE YOU THAT IF I HAD TWENTY AFFIDAVITS, THEY WOULD ALL DESCRIBE SIMILAR TREATMENT AND ACTIONS BY IBC. I INTEND TO CALL ADDITIONAL WITNESSES AT A JURY TRIAL. ADDITIONAL AFFIDAVITS CAN BE PROVIDED UPON REQUEST. ONE OF THE LAWYERS I CONSULTED SAID THAT TWO AFFIDAVITS WAS ENOUGH AT THIS POINT IN TIME.

STAFFING CHARTS:

STAFFING CHARTS THAT SHOW THAT THERE WAS NO REDUCTION IN STAFF AND POSITIONS WERE FILLED WITH YOUNGER LESS QUALIFIED PEOPLE. MY MANAGER AT THE TIME I WAS FIRED WAS NANCY GAVORONE. SEE MY NOTES ON THE FIRST PAGE OF THIS CHART.

ATTORNEYS:

LIST OF ATTORNEYS THAT I TRIED TO RETAIN. COMMENT AND OTHER INFORMATION. THERE WERE MORE ATTORNEYS CONTACTED, BUT I LOST A LIST OF LAWYERS REFERRED BY THE ATTORNEYS ON THE LIST. WITHDRAW MOTION MY FORMER ATTORNEY'S MOTION TO WITHDRAW AS COUNSEL AND COMMENTS. NOTE THAT THE ATTORNEY HAD ACCESS TO MY ENTIRE FILE WHEN HE SUBMITTED HIS MOTION TO WITHDRAW TO THE COURT.

ATTORNEY NOTES:

NOTES BY MY FORMER ATTORNEY SUBSTANTIATING THAT HE WANTED TO RE-NEGOTIATE THE AGREEMENT AND REQUESTED THAT I PAY $4,000 UP FRONT. HE KNEW I WAS NOT WORKING AND COULD NOT FIND ANOTHER JOB. I HAD ALREADY TOLD HIM THAT I DID NOT HAVE ANY MONEY AND THAT IS WHY I ENTERED INTO A CONTINGENCY AGREEMENT. I HAD USED UP ALL MY SAVINGS AND MY UNEMPLOYMENT HAD RUN OUT. HE KNEW ALL THIS, YET HE ASKED ME TO GIVE HIM $4000 FOR EXPENSES. WHEN I COULD NOT COME UP WITH THE MONEY HE SUBMITTED HIS MOTION TO THE COURT TO WITHDRAW AS COUNSEL.

TRANSCRIPTS:

TRANSCRIPTS FROM THE TWO HEARINGS BEFORE JUDGE MCGLYNN.

PLAINTIFF CORR:

MY CORRESPONDENCE AND OTHER DOCUMENTS SUBMITTED TO THE COURT.

DEFENDANT CORR:

THE DEFENDANTS CORRESPONDENCE AND OTHER DOCUMENTS SUBMITTED TO THE COURT.

RELEASE:

RELEASE CONTRACT ADMINISTERED BY IBC.

DECISIONS:

THE TWO DECISIONS HANDED DOWN BY JUDGE MCGLYNN. THE ONE COMMENT THAT I WOULD LIKE TO MAKE IS THAT I CAN NOT BELIEVE THAT JUDGE MCGLYNN WOULD INCLUDE "KNOWINGLY AND VOLUNTARILY" IN HIS DECISIONS. HE JUST DOESN'T

FEEL HE NEEDS TO JUSTIFY OR SUPPORT HIS STATEMENTS IN THESE DECISIONS. ONLY SOMEONE THAT WAS NOT COMPETENT TO ENTER INTO A CONTRACT WOULD "KNOWINGLY AND VOLUNTARILY" ENTER INTO AN AGREEMENT THAT WOULD LET AN EMPLOYER FIRE THEM AND REPLACE THEM WITH A YOUNGER PERSON IN EXCHANGE FOR 14 WEEKS OF SALARY AND BENEFITS. I WASN'T SMART ENOUGH TO REALIZE WHAT IBC WAS DCING, BUT I AM NOT INCOMPETENT. I DON'T FEEL TO BAD ABOUT NOT CATCHING ON, CONSIDERING THAT NONE OF THE OTHER PEOPLE OR THE LAWYERS CONSULTED REALIZED EXACTLY WHAT IBC WAS DOING.

(ATTACHMENT "A")

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. : CIVIL ACTION

v.

INDEPENDENCE BLUE CROSS

and

MANCHESTER, INC. NO. 92-4249

FILED JAN 13 1993

MEMORANDUM OF DECISION

McGLYNN, J.

JANUARY 13, 1993

In this employment termination case, the plaintiff asserts causes of action against the defendants-employer based on violations of the Employee Retirement Income Security Act ("ERISA") 29 U.S.C.

&1140, the age Discrimination in Employment Act, 29 U.S.C. &&621-634, Title VII of the Civil Rights Act of 1964, as well as a state law civil conspiracy claim.

The defendant has moved to dismiss or for summary judgment on the grounds that the claims are barred by a release executed by the plaintiff at the time of his termination. The plaintiff concedes that he signed the release after consulting counsel (transcript of oral argument 12/11/92 p. 23), nevertheless, he contends that the signing of the release was not done knowingly and voluntarily.

For reasons that follow, defendant's motion for summary judgement will be

granted.

ENTERED: 1/14/93

Plaintiff began his employment with Independence Blue Cross (IBC) in March 1980. By September, he was Head Systems Analyst. By reason of a department reorganization, IBC terminated plaintiff's employment effective September 27, 1990. At the time of his termination plaintiff was offered a severance package which included payment of severance benefits through January 3, 1991 and career continuation assistance through and an independent outplacement company, the co-defendant, Manchester, Inc. However, in exchange for this severance package, plaintiff was asked to sign a general release releasing IBC from any and all liability arising out of his

employment with IBC and the termination of his employment by IBC. Plaintiff signed the release on October 2, 1990.

In pertinent part, the release stated:

I, Joseph Bennett, Jr., for an in consideration of the payment of severance pay and such other good and valuable consideration as more fully described in the letter from the Vice President-operating Systems of Independence Blue Cross dated September 27, 1990, to which I had no previous right, and intending to be legally bound, for myself and my successor, heirs, assigns and personal representatives hereby release and forever discharge Independence Blue Cross, its successors, assigns,

subsidiaries, affiliated companies, employees, officers, directors and agents (hereinafter collectively referred to as "IBC") from any and all claims, liabilities, demands, damages and causes of action, known or unknown, fixed or contingent, which I ever had, now have or may have in the future against IBC. This General Release includes but is not limited to claims arising out of my employment and termination therefrom, claims arising under any federal, state or local laws prohibiting employment discrimination and any common law claims now or hereafter recognized including but not limited to the Age Discrimination [in] Employment Act, and/or to claims arising out of any alleged legal restrictions on the right of IBC to terminate my employment specifically.

I further agree that I will not file, charge claim, sue, or cause or permit to be filed, charged or claimed, any action, charge or complaint with any administrative agency or in any court of law, for legal or equitable relief (including damages, injunctive, declaratory, monetary or other relief) involving any matter arising out of my employment or termination of my employment with IBC....

Thereafter, on June 7, Plaintiff filed an age sex discrimination claim with the Equal Employment Opportunity Commission ("EEOC"). On April 30, 1992 the EEOC determined not to proceed with the investigation because it deemed the release to be valid and issued to plaintiff a "Notice of Right to Sue".

This suit followed.

Claims under the ADEA, Title VII, ERISA and state common law may be waived by an employee signing a release.

Alexander v. Gardner-Denver Co. 415 U.S. 36, 52 (1974) (Title VII); Leavitt v. Northwestern Bell Tel. Co., 921 F.2d 160, 162-3 (8th Cir. 1990) (ERISA); American Lumber Corp. v. National R.R. Passenger Corp., 886 F.2d 50, 55-56 (3rd Cir. 1989) (Pennsylvania contract law); Cirillo v. Arco Chem. Co., 862 F.2d 448, 449 (3d Cir. 1988) (ADEA); Coventry v. U.S. Steel Corp., 856 F.2d 513, 518 (3d Cir. 1988) (ADEA and Title VII). To be effective, the waiver must be knowing and voluntary. Coventry, 856 F.2d at 518.

In determining the validity of a waiver, courts apply a totality of circumstances test, which takes into account:

(1) The clarity and specificity of the release language;

(2) The plaintiff's education and business experience;

(3) The amount of time plaintiff had for deliberation before signing the release;

(4) Whether plaintiff knew or should have known his rights upon execution of the release.

(5) Whether the plaintiff was encouraged to seek, or in fact received, the benefit of counsel;

(6) Whether there was an opportunity for negotiation of the terms of the agreement; and

(7) Whether the consideration given in exchange for the waiver and accepted by the employee exceeds the benefits to which the employee was already entitled

by contact or law. Cirillo, 862 F.2d at 451.

---

1. Plaintiff executed the release on October 2, 1990, approximately two weeks before the enactment of the Older Workers Benefit Protection Act ("OWBPA"), 29 U.S.C. & 626(f), which sets forth specific criteria for when a waiver or rights under the ADEA will be deemed knowing and voluntary. The effective date of the OWBPA was October 16, 1990, and the Act is prospective only. Consequently, the standard applicable to determine the enforceability of the Plaintiff's release is the federal common law that existed prior to the enactment of the OWBPA. Gormain v. Brown-Forman Corp. , 963 F.2d 323 (11th Cir. 1992) (OWBPA inapplicable to suit filed before

Congress passed statute); Ulvin v. Northwestern Life, 943 F.2d 862 (8th Cir. 1991), cert. denied, 112 S. Ct. 970, 117 L.Ed.2d 135 (1992) (enactment of OWBPA not evidence of Congress' intent with regard to waivers signed before Act, because Act states that it shall not apply to waivers occurring before it's enactment)

Application of the Cirillo factors to this case leads to the conclusion that the Plaintiff's release was knowing and voluntary.

First, the language of the release is straightforward, clear and unambiguous. It identifies the consideration and specifically informs the employee that by signing, he waives "any and all claims, liabilities,

demands, damages and causes of action, known or unknown..." including "claims arising out of my employment and termination therefrom..." under any federal, state or local laws prohibiting employment discrimination, and it specifically refers to common law claims and claims under the ADEA.

Second, plaintiff is a high school gradate and a computer programmer with more than two decades of experience in the business world. This educaton and experience suggests more than a modicum of intelligence and an ability to deal with matters of importance in his life. See Pears v. Sang, 718 F. Supp. 441, 451 (W.D. Pa. 1989) (Plaintiff's high school diploma and attendance on one-year at secretarial school held to be sufficient

education and experience to execute release). the factor of education and experience is a minimal threshold, and it certainly is satisfied here.

Third, Plaintiff was given no deadline to sign the release. Rather, IBC sent the release to plaintiff on September 27, 1990 and invited plaintiff to contact the Director of_____

2. The number and content of the documents filed pro se suggest a great deal of sophistication on the plaintiff's part.

Employee Relations with any question regarding the severance package and the release. Five days later, on October 2, 1990, plaintiff signed the release and in a letter to the Court dated November 11, 1992, he concedes that he had until

October 5, 1990 to return the release. Thus plaintiff had 6 business days, 8 calendar days to consider the release. This is not a situation in which the employer required that the release had to be signed during an exit interview. Plaintiff had ample time to deliberate and consider the consequences of signing the release. Plaintiff signed the release within several days of receiving it, and by his own admission, he signed it three days before the deadline.

Fourth, the release itself alerted the plaintiff to the fact that he could have "claims arising our of [his] employment and termination... arising under... federal, state or local laws prohibiting employment discrimination ... ", and, in particular, the ADEA. By

signing the release, plaintiff acknowledged that he was giving up his right to assert any such claims.

Fifth, plaintiff expressly acknowledged in the release that he had "been given the opportunity to consult with an attorney or personal representative before signing this General Release". The relevant inquiry on this factor is "whether consultation with a lawyer was encouraged orally or in writing, not whether a plaintiff in fact received the benefit of counsel," Cook v. Buzton, Inc., 793 F. Supp. 622, 625 (W.D. Pa 1992); Ponzoni v. Kraft General foods, Inc., 774 F. Supp. 299, 312 (D. N.J. 1991) ("Even where a plaintiff does not seek counsel, an express statement regarding his or her right to do so

satisfies this factor."), aff'd, 968 F.2d 14 (3d Cir. 1992); see also Cirillo, 862 F.2d at 445; Coventry, 856 F. 2d at 524 ("significant is the absence in the record of any indication that [plaintiff] was encouraged by [his employer] to consult an attorney prior to signing the release") In the instant case, plaintiff acknowledged in the text of the release that he had been given the opportunity to consult with an attorney or personal representative, and the fact is, he did consult two lawyers prior to signing.

Sixth, plaintiff certainly had the opportunity to negotiate the terms of the release. That he chose not to do so does not weigh against it enforceability. See Cirillo, 862 F.2d at 454 (release enforceable even where terminated

employee was not afforded opportunity to negotiate it terms); Ponzoni, 774 F. Supp. at 312-13 (absence of plaintiff's opportunity to specifically negotiate language of release not strong indicia that waiver was unknowing or involuntary). In any event, the letter of September 27, 1990 invited him to ask questions about the severance package which was contingent upon execution of the release.

Finally, in exchange for signing the release, plaintiff received from IBC a severance package to which he otherwise would not have been entitled, Specifically, plaintiff received severance pay through January 3, 1991, current health and life insurance benefits through January 3, 1991, and

career continuation assistance through Manchester. Plaintiff would not have received these incentives had he not released his claims against IBC. Plaintiff does dispute that the consideration that he received in exchange for signing the release exceeded the benefits to which he other wise would have been entitled by law or contract. Therefore, there was ample consideration to support the release.

Thus, the totality of the circumstances surrounding plaintiff's signing of the General Release demonstrates that the release was knowing and voluntarily executed by him and is a complete bar to this action against IBC. See Cirillo, 862 F 2d at 455 (affirming grant of summary judgment in favor of employer on

ADEA claim on grounds that release was knowing and voluntary); Pilon v. University of Minnesota, 710 F. 2d 466 (8th Cir. 1993) (summary judgment upheld despite petitioner's subjective belief that unambiguous release did not bar certain Title VII claims); Mercer v. Richardson Brands, Inc., No. 91-4033, 1992 WL 164711, 1992 U.S. Dist LEXIS 9302, (E.D. Pa. July 2, 1992 (granting summary judgement in favor of employer on Title VII and PHRA claims on grounds of valid settlement agreement); Mullen v. New Jersey Steel Corp., 733 F. Supp. 1534. 1543-47 (D. N.J. 1990) (granting summary judgment in favor of employer on claims under ADEA, New Jersey Law Against Discrimination, and New Jersey common law on grounds of severance agreement containing valid release); Pears v Sang,

718 F. Supp. 441, 445-47 (W.D. Pa. 1989) (granting summary judgment in favor of employer on ADEA claim on grounds of valid release).

Plaintiff's complaint does not state an actionable claim for civil conspiracy, and that portion of the plaintiff's complaint purporting to state such a claim will be dismissed with prejudice. Plaintiff alleges that IBC and Manchester "conspired to discharge him and other long-term IBC employees as part of a plan or scheme to discharge white males because of their sex and race. (complaint && 14-15).

Regardless of whether one reads plaintiff's complaint to allege conspiracy to violate the ADEA, Title VII

or the Pennsylvania Human Relations Act ("PHRA"), 43 P.S. &951 et seq., plaintiff's claim for civil conspiracy must be dismissed for failure to state a claim. The United States Supreme Court has expressly stated that no cause of action exists for conspiracy to violate Title VII, Great AM. Fed Sav. & Loan Ass'n v. Novotny, 442 U.S. 336 (1979), and numerous courts have applied the Novotny rationale to the ADEA. See, e.g., Jones v. Baskin, Flaherty, Elliott and Mannino, P.C., 738 F. Supp. 937, 940-41 (W.D. Pa. 1989) (granting summary judgment in favor of employer on plaintiff's claim for conspiracy to violate ADEA), aff'd, 897 F.2d 522 (3d Cir.), cert. denied, 111 S. Ct. 47, 112 L. Ed. 2d 23 (1990); Moorhouse v. Boeing Co., 501 F. Supp.

390, 394 (E.D. Pa.) (noting that, based on Novotny, plaintiff conceded propriety of directed verdict on count alleging conspiracy to violate ADEA) aff'd, 639 F.2d 774 (3d Cir. 1980).

To the extent that plaintiff's complaint is read to allege conspiracy to violate the PHRA, the same result obtains. It is seemingly well established under Pennsylvania law that an at-will employee such as plaintiff does not have common law cause of action arising from discrimination prohibited by the PHRA, and that any claim by an employee for unlawful discrimination under state law is limited to that provided by the statute. Clay v. Advanced Computer Applications, Inc. 522 Pa. 86, 89-90, 559 A. 2d 917, 918-19 (1989). See also,

Murray v. Commercial Union Ins. Co., 782 F.2d 432, 436 (3rd Cir. 1986) (refusing to recognize common law actions for claims that could be raised under PHRA); Bruffett v. Warner Communications, Inc., 692 F.2d 910 (3d Cir. 1982) precluding common law tort claim premised on handicapped discrimination); McWilliams v. AT&T Info. Sys., Inc., 728 F. Supp. 1186, 1192 (W.D. Pa. 1990) (plaintiff could only pursue cause of action based on discrimination under PHRA); Householder v. Kensington Mfg. Co., 360 Pa. Super. 290, 294, 520 A.2d 461, 464, appeal denied, 516 PA. 629, 532 A.2d 1137 (1987) (expressly approved of in Clay) (party alleging unlawful discrimination cognizable under PHRA must utilize administrative remedies available through PHRC before asserting cause of action in

court).

Because plaintiff's underlying allegation is that he was discharged because of his age, sex, and race, he should have availed himself of the statutory remedy under PHRA. Plaintiff cannot accomplish and end run around the carefully constructed statutory scheme established under the PHRA merely by creatively pleading a cause of action for civil conspiracy. As the court in Clay made clear, there exists no common law cause of action against an employer for termination of an at-will employment relationship, regardless of whether that claim is pleaded as a claim for wrongful discharge or a claim for civil conspiracy.

Fed. R. Civ. P. 56(c) instructs the court to render summary judgement forthwith "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law". A fact is material if it could affect the outcome of the suit under the applicable substantive law. Anderson v. Liberty Lobby, Inc., 447 U.S. 242, 255 (1986). "Factual disputes that are irrelevant or unnecessary will not be counted." Id. (citing 10 A C. Wright, A. Miller & M. Kane, Federal Practice and Procedure, &2725 at 93-95 (1983). Further, the factual dispute must be "genuine". The evidence must be such "that a reasonable jury could return a

verdict in favor of the non-moving party". Id.

The essence of the plaintiff's response to the defense of release is that at the time he signed the release, he did not know he had a discrimination claim. Whether or not he knew he had a discrimination claim is immaterial. What he did know is that he was waiving his right to assert such a claim, and that fact is not disputed. I conclude, therefore, that the release is valid and binding and is a complete bar to this action.

Accordingly, summary judgement will be granted in favor of IBC and against the plaintiff on plaintiff's claims of age discrimination under the ADEA and sex and

race discrimination under Title VII.

Plaintiff's claims based on civil conspiracy will be dismissed for failure to state a cause of action and plaintiff's claims based on violation of section 510 of ERISA will be dismissed as withdrawn.

IN THE UNTIED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. CIVIL ACTION

v.

INDEPENDENCE BLUE CROSS
and
MANCHESTER, INC. No. 92-4249

ORDER

AND NOW, this 13TH day of JANUARY, 1993, upon consideration of the defendant's motion to dismiss or for summary judgment, it is hereby

ORDERED that summary judgement is GRANTED in favor of the defendant Independence Blue Cross and against the plaintiff Joseph Bennett, Jr.

It is further ordered that plaintiff's claim based on a violation of Section 510 of ERISA is DISMISSED as WITHDRAWN.

BY THE COURT:

SIGNATURE

JOSEPH L. McGLYNN JR. J.

(ATTACHMENT "B")

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. :

v.

INDEPENDENCE BLUE CROSS

and Civil Action

MANCHESTER, INC. NO. 92-4249

FILED MAR -2 1993

MEMORANDUM OF DECISION

McGLYNN, J. MARCH 2, 1993

FACTUAL BACKGROUND

The defendant, Manchester Inc., is in the business of providing career counseling and outplacement services. outplacement services consist of counseling persons who have become

unemployed in the various strategies for successfully finding new employment. Such services include resume preparation and the identification of career choices and opportunities. Manchester is not an employment agency: it does not attempt to match candidates looking for employment with appropriate jobs. Rather, Manchester counsels individuals in how to conduct a job search on their own and how to present themselves in the best light for the jobs they choose to pursue. Manchester is retained by employers to provide their service to employees who have been terminated. The client companies pay for Manchester's services. Independence Blue Cross ("IBC") has hired Manchester from time to time to counsel IBC employees who have been terminated. IBC and Manchester are wholly independent

companies.

IBC informed Manchester in late September of 1990 that it intended to terminate approximately 39 employees and requested Manchester to provide its services to those employees. Manchester took no part in determining which employees, if any, were to be terminated. Among the employees who were terminated by IBC was the plaintiff in this case, Joseph Bennett, Jr. Mr. Bennett attended the three day seminar presented by Manchester which commenced on Friday September 28, 1990 and ended on Tuesday, October 2, 1990.

Plaintiff brought this suit against Manchester alleging that Manchester committed a fraud upon him which induced

him to sign a release (which Manchester was not a party to) which relieved IBC from liability for discrimination against him on the basis of his age, sex, and race by various representations and actions by Manchester representatives. Plaintiff also alleged under state law that Manchester conspired with IBC to discriminate against him to interfere with his attainment of employee benefits in violation of the Employee Retirement Income Security Act ("ERISA") 29 U.S.C. &&621-634, to discriminate against him on the basis of his age in violation of the Age Discrimination in Employment Act ("ADEA"), and discriminate against him on the basis of his sex and race in violation of Title VII of the Civil Rights Act of 1964.

DISCUSSION

Before the court is defendant Manchester's Motion for Summary Judgement under Federal Rule of Civil Procedure 56. Defendants' motion will be granted for the reasons that follow.

Rule 56 of the Federal Rules of Civil Procedure instructs the court to render summary judgment forthwith "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." A fact is material if it could affect the outcome of the suit under the applicable substantive law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). "Factual disputes that are

irrelevant or unnecessary will not be counted. "Id. (citing 10 A C. Wright, A. Miller & M. Kane, Federal Practice and Procedure, &2725 at 93-95 (1983)). Further, the factual dispute must be "genuine." The evidence must be such "that a reasonable jury could return a verdict in favor of the non-moving party,." Id.

In his claims for fraud and conspiracy, plaintiff alleged that he was encouraged to sign the release by Manchester's statement that most of the individuals they counsel find jobs of equal or greater pay, Manchester's failure to tell him that the job market was lean, Manchester's scheduling the seminars to impede plaintiff from seeking legal advise concerning the IBC release

as well as impeding him from finding out that the job market was lean by job hunting during those hours, and Manchester's advising him not to start his job search until after he attended the seminars.

The Pennsylvania Supreme Court has stated that "fraud consists in anything calculated to deceive, whether by single act or combination, or by suppression of truth, or a suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or silence, word of mouth, or look or gesture. It is any artifice by which a person is deceived to his disadvantage. Tunis Brothers Co. Inc. v. ford Motor Company, 952 F.2d 715 (3d Cir. 1991) (quoting In re McCellan's Estate 365 Pa 401, 407, 75 A.2d 595, 598

(1950)(internal citations omitted)).

The plaintiff failed to offer any facts which support his position that he was defrauded by Manchester's actions and statements. Plaintiff did not dispute the truth of Manchester's statement that most of the individuals they counsel find employment at equal or better pay and plaintiff did not offer any other concrete examples of statements that allegedly defrauded him. Although it is true that the seminars were offered during working hours, the plaintiff offered no proof that Manchester's choice of hours was designed to impede him from seeking legal counsel or prevent him from job hunting rather than for the simple convenience of those attending Manchester's seminars. Similarly, no

facts were offered which indicate that Manchester's advice to stay his job hunt until after the tree day seminar was to prevent him from finding out that the job market was lean rather than to wait until he received the benefit of their counsel to conduct a more effective job search. In short, there is no evidence that any actions or statements by Manchester were calculated to deceive Mr. Bennett. The fact is that Plaintiff did seek and obtained legal counsel of his own choosing. After which he signed the release.

Plaintiff's complaint does not state an actionable claim for civil conspiracy, and that portion of plaintiff's complaint purporting to state such a claim will be dismissed with prejudice. Regardless of

whether one reads plaintiff's complaint to allege conspiracy to violate the ADEA, Title VII or the Pennsylvania Human Relations Act ("PHRA"), 43 P.S. &951 et seq., Plaintiff claim for civil conspiracy must be dismissed for failure to state a claim. The United States Supreme Court has expressly stated that no cause of action exists for conspiracy to violate Title VII, Great Am. Fed. Sav. & Loan Ass'n v. Novotny, 442 U.S. 336 (1979), and numerous courts have applied the Novotny rationale to the ADEA. See, e.g., Jones v. Baskin, Flaherty, Elliott and Mannino, P.C., 738 F. Supp. 937, 940-41- (W.D. Pa. 1989) (granting summary judgment in favor of employer on plaintiff's claim for conspiracy to violate ADEA), aff'd, 897 F.2d 522 (3d Cir.), cert. denied, 111 S. Ct. 47, 112

L. Ed. 2d 23 (1990); Moorhouse v. Boeing Co., 501 F. Supp. 390, 394 (E.D.) Pa.) (noting that, based on Novotny, plaintiff conceded propriety of directed verdict on count alleging conspiracy to violate ADEA), 1. see proir ruling. aff'd, 639 F.2d 774 (3d Cir. 1980). Moreover, if the plaintiff's complaint is read to include an allegation of conspiracy to violate the PHRA the same result obtains. It is seemingly well established under Pennsylvania law that an at-will employee such as the plaintiff does not have a common law cause of action arising from discrimination prohibited by the PHRA, and that any claim by an employee for unlawful discrimination under state law is limited to that provided by the statute. Clay v. Advanced Computer Applications, Inc., 522 Pa. 86, 86-90,

559 A, 2d 917, 918-0919 (1989).

Therefore, summary judgment will be granted in favor of the defendant and against the plaintiff on plaintiff's claim of fraud and plaintiff's claims based on civil conspiracy will be dismissed for failure to state a cause of action. An appropriate order follows.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. :

v.

INDEPENDENCE BLUE CROSS

and Civil Action

MANCHESTER, INC. NO. 92-4249

ORDER

AND NOW, this 2nd day of March, 1993, upon consideration of the defendant's motion for Summary Judgment and defendant's response thereto, it is hereby

ORDERED that Summary Judgment is GRANTED in favor of the defendant, Manchester, Inc. and against the plaintiff, Joseph Bennett Jr.

BY THE COURT:

JOSEPH L. MCGLYNN, JR. J.

(ATTACHMENT "C")

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. :

v.

INDEPENDENCE BLUE CROSS

and Civil Action

MANCHESTER, INC. NO. 92-4249

MEMORANDUM OF DECISION

McGLYNN, J. JUNE 29, 1993

Final judgement in this matter was entered on March 3, 1993. Under date of 6/18/93, plaintiff submitted a letter request to this court asking for an "[e]xtension [of] [t]ime [to] [a]ppeal." However, the docket shows that a notice of appeal had been filed on June 3, 1993.

Presumably, plaintiff seeks to legitimize the late filing by extending the time to include the June 3rd date.

In view of the pending appeal to the Court of Appeals, it is questionable whether this court has jurisdiction to act on the request.

But assuming that this court has the power to act, the request would have to be denied since Rule 4(a) (6) of the Rules of Appellate Procedure provides that a party who did not receive notice of the entry of the final order or judgment within 21 days the district court "may upon motion filed within 180 days of entry of the judgment or order or within 7 days of receipt of such notice, whichever is earlier reopen the time for

appeal..." (emphasis added).

According to plaintiff's letter request paragraph 4, it is apparent that plaintiff had notice of the final order at the latest on May 19, 1993. Therefore, in order to obtain relief under FRAP 4(a)(6), the request for extension of time had to be filed on or before May 26, 1993.

Under these circumstances, this court cannot grant an extension. See FRAP 26(h)

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. :

v. FILE JUN 29 1993

INDEPENDENCE BLUE CROSS

and Civil Action

MANCHESTER, INC. NO. 92-4249

ORDER

AND NOW, this 29th day of JUNE, 1993, upon consideration of the letter request addressed to the clerk of the Court under date of June 18, 1993 and received by the Clerk on June 22, 1993, it is hereby ORDERED that:

1. The letter request is hereby docketed as a motion for an extension of time to file a notice of appeal under FRAP 4(a)(6).

2. The motion is DENIED for the reasons stated in the attached Memorandum.

BY THE COURT

signature

Joseph L. Mcglynn Jr.

(ATTACHMENT "D")*

CPS-27 AUGUST 12, 1993

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 93-1550

JOSEPH BENNETT

vs.

INDEPENDENCE BLUE CROSS, ET AL.

(E.D. PA. CIV. NO. 92-04249)

Present: MANSMANN, HUTCHINSON AND SCIRICA, CIRCUIT JUDGES

Submitted are:

(1) By the clerk for possible dismissal due to a jurisdictional defect;

(2) Appellant's motion to file an appendix and expand the record;

(3) Appellant's response;

(4) Appellee Independence Blue Cross' response in the above-captioned case.

Respectfully ,

P. Douglas Sisk

Clerk

PDS/LLB

_____O R D E R_____

The Foregoing

(hand written)

Appeal is dismissed since the appellant did not file the notice of appeal during the time period, set by law, in which the

court of appeal would have jurisdiction.

The other motions are denied as moot.

By the court

Carol Los Mansmann

Circuit Judge

Dated Aug 31 1993

"initials"

(unable to distinguish initials at bottom because copy received was not legible.)

(ATTACHMENT "E")

CPS-28 AUGUST 12, 1993

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 93-1680

JOSEPH BENNETT

vs.

INDEPENDENCE BLUE CROSS, ET AL.

(E.D. PA. CIV. NO. 92-04249)

Present: MANSMANN, HUTCHINSON AND SCIRICA, CIRCUIT JUDGES

Submitted are:

(1) By the clerk is the within appeal for possible summary action pursuant to Chapter 10.6 of the Internal Operating Procedures;

(2) Appellant's summary action response dated July 27, 1993, which the Court also may wish to treat as a motion for counsel on appeal;

(3) Appellant's motion to file an appendix and expand the record;

(4) Appellant's supplemental responses;

(5) Appellee' responses in the above-captioned case.

Respectfully ,

P. Douglas Sisk

Clerk

PDS/LLB

_____O R D E R_____

The Foregoing

(hand written)

Appeal will be considered for summary action pursuant to chapter 10.6 of ??? I.O.P.s. It is hereby ordered that the

order of the district court dated June 30, 1993 is summarily affirmed. The remaining motions are denied as moot.

CPS-27 AND CPS-28 AUGUST 12, 1993

Re: Bennett v. Independence Blue Cross, et al.

C.A. No. 93-1680

(E.D. Pa. Civ. No. 92-04249)

By the Court,

Carol Los Mansmann

Circuit Judge

Dated: Aug 24 1993

(ATTACHMENT "F1")

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 93-1550

JOSEPH BENNETT

Appellant

vs.

INDEPENDENCE BLUE CROSS, ET AL.

SUR PETITION FOR REHEARING

Present: SLOVITER, Chief Judge,
BECKER, STAFFLETON, MANSMANN, GREENBERG, HUTCHINSON, SCIRICA, COWEN, NYGAARD, ALITO, ROTH AND LEWIS, Circuit Judges.

The petition for rehearing filed by appellant in the above entitled case having been submitted to the judges who participated in the decision of this court and to all other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

BY THE COURT

Carol Los Mansmann

Circuit Judge

Sep 20 1993

(ATTACHMENT "F2")

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 93-1680

JOSEPH BENNETT

Appellant

vs.

INDEPENDENCE BLUE CROSS, ET AL.

SUR PETITION FOR REHEARING

Present: SLOVITER, Chief Judge,

BECKER, STAFPLETON, MANSMANN, GREENBERG, HUTCHINSON, SCIRICA, COWEN, NYGAARD, ALITO, ROTH AND LEWIS, Circuit Judges.

The petition for rehearing filed by appellant in the above entitled case having been submitted to the judges who

participated in the decision of this court and to all other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

BY THE COURT,

Carol Los Mansmann

Circuit Judge

Sep 20 1993

(ATTACHMENT "G")

Note: EEOC TEST FORM 5 (8/1/89). All preprented information from form was not retyped.

CHARGE OF DISCRIMINATION

CHARGE NUMBER 170911048

State or local agency --- EEOC

name:

Mr. Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

County: Cumberland

(609) 825-5388

NAME OF THE EMPLOYER

INDEPENDENCE BLUE CROSS

1901 MARKET STREET

PHILADELPHIA, PA 19103-1480

NUMBER OF EMPLOYEES -- 15+

CAUSE OF DISCRIMINATION BASED ON

SEX AND AGE

DATE MOST RECENT DISCRIMINATION TOOK PLACE --- 09/27/90

THE PARTICULARS ARE;

I. I was employed by Independence Blue Cross for approximately 10 years to September 27, 1990, at which time I was discharged from my position of Lead Systems Analyst.

II. Mr. Stan Adamczyk, who is one of the two Director's of Application, told me that I was being discharged because I was not qualified for the new system-unit.

III. I believe that I have been discriminated against because of age

(51) and my sex male. A total of 39 employees were discharged on 9/27/90 and I believe that the majority of those discharged were over 40 years of age. My group consisted of 5 employees (3 males and 2 females). Both of the females were retained while all of us males were discharged.

RECEIVED EEOC PHILADELPHIA 1991 JUN 3 PH 12:55

signature

JBennett Jr.

6/3/91

93-985

Supreme Court, U.S.
FILED
NOV 12 1993
OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1993

JOSEPH BENNETT JR.

PETITIONER

V.

INDEPENDENCE BLUE CROSS AND

MANCHESTER INC.

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE JUDGMENT SUPREME COURT OF THE U.S.

APPENDIX (2) of (2) TO

PETITION FOR WRIT OF CERTIORARI

PRO SE

JOSEPH BENNETT JR.
312 HENDERSON AVE.
MILLVILLE, N.J. 08332
PHONE 609-825-5388

85pp

INDEX TO APPENDIX

ATTACHMENT "A": Page A-1 (1) OF (2)	MEMORANDUM OF DECISION DATED JANUARY 13, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "B": Page B-1 (1) OF (2)	MEMORANDUM OF DECISION DATED MARCH 2, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "C": Page C-1 (1) OF (2)	ORDER DATED JUNE 29, 1993 SIGNED BY JUDGE JOSEPH L. MCGLYNN.
ATTACHMENT "D": Page D-1 (1) OF (2)	ORDER DATED AUGUST 12, 1993. STAMPED AUGUST 31, 1993. SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "E": Page E-1 (1) OF (2)	ORDER DATED AUGUST 12, 1993. STAMPED AUGUST 24, 1993. SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "F-1": Page F1-1 (1) OF (2)	ORDER DATED SEPTEMBER 20, 1993. APPEAL NO. 93-1550 SIGNED BY JUDGE CAROL LOS MANSMANN.

ATTACHMENT "F-2": Page F2-1 (1) OF (2)	ORDER DATED SEPTEMBER 20, 1993. APPEAL NO. 93-1680 SIGNED BY JUDGE CAROL LOS MANSMANN.
ATTACHMENT "G": Page G-1 (1) OF (2)	EEOC COMPLAINT DATED JUNE 3,1991.
ATTACHMENT "H": Page H-1 (2) OF (2)	CIVIL COMPLAINT DATED JUNE 22, 1992.
ATTACHMENT "I-1": Page I1-1 (2) OF (2)	LAWYER/BENNETT AGREEMENT DATED JULY 18, 1991.
ATTACHMENT "I-2": Page I2-1 (2) OF (2)	LAWYER NOTES DATED JULY 24, 1992 SUBSTANTIATING MY ALLEGATIONS THAT HE DROPPED THE CASE BECAUSE OF MONEY.
ATTACHMENT "J-1": Page J1-1 (2) OF (2)	LETTER FROM THE COURT DATED JUNE 3, 1993 INDICATING THAT THEY MISTAKENLY SENT THE DECISIONS TO MY FORMER ATTORNEY.
ATTACHMENT "J-2": Page J2-1 (2) OF (2)	LETTER TO THE COURT DATED MAY 1, 1993 INQUIRING WHY A DECISION HAD NOT BEEN MADE.

ATTACHMENT "J-3": Page J-1 (2) OF (2)	LETTER TO THE COURT DATED MAY 20, 1993 EXPRESSING MY OPINION OF WHAT THE COURT HAD DONE TO DISADVANTAGE ME IN THIS MATTER.
ATTACHMENT "K-1": Page K1-1 (2) OF (2)	LETTER FROM DEFENDANT ATTORNEY DATED MAY 7, 1993 WITH THE WRONG DECISION ATTACHED.
ATTACHMENT "K-2": Page K2-1 (2) OF (2)	LETTER FROM DEFENDANT ATTORNEY DATED MAY 17, 1993 WITH THE CORRECT DECISION ATTACHED.
ATTACHMENT "L": Page L-1 (2) OF (2)	LETTER TO THE COURT DATED JUNE 18, 1993 REQUESTING EXTENSION OF TIME AS PER INSTRUCTIONS BY THE APPEALS COURT STAFF ATTORNEY.
ATTACHMENT "M-1": Page M1-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 06/04/93 ASKING THE APPEALS COURT TO TAKE AUTHORITY IN DECIDING THE VALIDITY OF MY APPEAL. THE DATE WAS WRONG ON THE LETTER. SHOULD HAVE BEEN 07/04/93.

ATTACHMENT "M-2": Page M2-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 07/12/93 INDICATING THAT I DID NOT TRUST THAT EVERYTHING I SUBMITTED TO THE DISTRICT COURT WOULD BE MADE AVAILABLE TO THE APPEALS COURT. I WAS THEREFORE SUBMITTING A COMPLETE COPY OF EVERYTHING I HAD IN MY POSSESSION CONCERNING THE CASE.
ATTACHMENT "N-1": Page N1-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 08/30/93 REQUESTING A RE-HEARING APPEAL NO 93-1680.
ATTACHMENT "N-2": Page N2-1 (2) OF (2)	LETTER TO THE APPEALS COURT DATED 09/02/93 REQUESTING A RE-HEARING APPEAL NO 93-1550.
ATTACHMENT "X": SEE INDEX PAGE v. (1) OF (2)	ONE COPY OF THE COMPLETE FILE SUBMITTED TO THE APPEALS COURT.(NOT RETYPED OR REDUCED IN SIZE).

(ATTACHMENT "H")

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR. Civil Action
312 Henderson Avenue NO. 92-4249
Millville NJ 08332

v.

INDEPENDENCE BLUE CROSS
1901 Market Street FILED JUL 22 1992
Philadelphia, PA 19103

and

MANCHESTER, INC.
Mellon Bank Center
1735 Market Street
Philadelphia, PA 19103

COMPLAINT - CIVIL ACTION

1. Plaintiff, Joseph Bennett, Jr., is a white adult individual residing at 312 Henderson Avenue, Millville, New Jersey who was born on November 10, 1939.

2. Defendant, Independence Blue Cross ("IBC") is a corporation engaged in interstate commerce and is an employer in an industry affecting interstate commerce.

3. IBC's principal place of business is located at 1901 Market Street, Philadelphia, Pennsylvania.

4. At all times relevant hereto, IBC acted through its agents, servants and employees who were acting within the

course and scope of their agency and employment with IBC.

5. Defendant Manchester, Inc. is a corporation engaged in interstate commerce and is an employee in a industry affecting interstate commerce.

6. Defendant Manchester, Inc.'s principal place of business is located at Mellon Bank Center, 1735 Market Street, Philadelphia, Pennsylvania.

7. At all times relevant hereto, Manchester acted through its agents, servants and employees who were acting within the course and scope of their agency and employment with Manchester.

8. This Court has jurisdiction over this matter pursuant to 28 U.S.C. &1331.

9. This Court has pendent jurisdiction over plaintiff's state law claims.

10. All jurisdictional prerequisites to the bringing of this action have been satisfied.

11. Upon information and belief, plaintiff became an employee of IBC on or about March 23, 1980.

12. Plaintiff received annual evaluations from IBC due to his employment with IBC.

13. IBC rated plaintiff as satisfactory or better in each annual evaluation.

14. Upon information and belief, sometime before September 27, 1990, IBC and Manchester conspired to discharge plaintiff and other IBC employees who had worked with IBC for a long period of time.

15. Upon information and belief, IBC developed a plan or scheme to discharge plaintiff and other white males because of sex and race.

16. Upon information and belief, IBC developed a plan or scheme to discharge plaintiff and other employees who had worked with IBC for a long period of time.

17. Upon information and belief, Manchester was aware of IBC's plan or

scheme and conspired with IBC to conceal IBC's illegal intentions.

18. On or about September 27, 1990, plaintiff was discharged from the employ of IBC.

19. Subsequent to Plaintiff being discharged, Manchester conspired with IBC to conceal IBC's discriminatory purpose and intent when it discharged plaintiff.

20. Upon information and belief, IBC replaced plaintiff with a female who was younger than plaintiff.

21. Upon information and belief, IBC replaced plaintiff with the person identified in paragraph 20 because she was female and because she was younger

than plaintiff.

22. At all times relevant hereto, plaintiff was qualified for the position that he was discharged from by IBC.

23. At all times relevant hereto, plaintiff notified IBC that he was ready, willing and able to continue his employment with IBC.

24. Defendants, and each of them, acted intentionally and willfully.

25. The conduct of defendants, and each of them, constitute civil conspiracy.

26. In violation of Section 510 of ERISA, 29 U.S.C &1140, defendants, and each of them, interfered with plaintiff's

attainment of rights under severance or other cash benefit plans.

27. In violation of 29 U.S.C. &623, defendants, and each of them, discriminated against plaintiff because of his age.

28. In violation of 42 U.S.C. &&20000e, et seq., defendants, and each of them, discriminated against plaintiff because of his color.

WHEREFORE, plaintiff prays this court to:

A. Award plaintiff compensatory and punitive damages against defendants, and each of them;

B. Order defendant Independent Blue Cross to hire plaintiff with all benefits previously accrued;

C. Award plaintiff attorney fees and costs of this suit; and

D. Award plaintiff such other relief as this Court deems equitable and just under the circumstances.

Respectfully Submitted,

LITVIN, BLUMBERG, MATUSO & YOUNG

BY:

JOE H., TUCKER, JR., ESQUIRE

Attorney I.D. 56617

210 W. Washington Square

Fifth Floor

Phila., PA 19106

(215) 925-4500

Attorney for Plaintiff

VERIFICATION

I, JOSEPH BENNETT, Jr., hereby verify that the statements made in the foregoing COMPLAINT are true and correct to the best of my knowlegdge, information and belief. I understand that the statements herein are made subject ot the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

signature

J.Bennett Jr. 7/16/92

(ATTACHMENT "I-1")

CONTINGENT FEE AGREEMENT

I, Joseph Bennett, Jr., hereby retain the law firm of LITVIN, BLUMBERG, MATUSOW & YOUNG to represent me with respect to all claims arising out of my September 27, 1990, discharge from Independence Blue Cross occurring on or about the above date.

I agree that I will pay as fee for services rendered a sum equal to 33-1/3% of the total amount of the recovery on my behalf by way of settlement or verdict, after first deducting all reasonable and necessary costs incurred in the investigation and prosecution of the claim.

I understand that no settlement of the claim will be consummated without my prior approval.

I hereby acknowledge receipt of a duplicate copy of this Contingent Fee Agreement.

Signature

JBennett Jr

Witness

Elizabeth Bennett

Date 7/18/91

(ATTACHMENT "I-2")

M E M O R A N D U M

TO: BENNETT FILE

FROM: JHT

DATE: July 24, 1992

RE: BENNETT

On this day, I spoke to Joe Bennett pertaining to the Blue Cross litigation. Mr. Bennett stated that he was not able to gather $4,000 to give the firm to offset costs that might be incurred in this litigation. I never stated to Mr. Bennett whether such an arrangement would or would not be agreeable. He simply stated that he did not wish to have that type of arrangement. I stated to Mr.

Bennett that I found an attorney, Ronald V. Cole (569-3380), who would represent Mr. Bennett if he had $4,000 to put forth

stated that because he is unable to raise any money at this time, he does not wish to enter into such an arrangement with Mr. Cole and the only type of arrangement he would take would be a total contingency fee agreement without putting up any money.

JHT/jg

(ATTACHMENT "J-1")

June 3, 1993

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH BENNETT, JR.

VS. CIVIL ACTION

INDEPENDENCE BLUE CROSS, MANCHESTER, INC. NO. 92-4249

Dear Mr. Bennett, Jr.:

This is in response to your letter to Michael E. Kunz, Clerk of the U.S. District Court, dated 05/20/93; received by the Court on June 1, 1993.

A copy of the Memorandum of Decision dated January 13, 1993 and the Memorandum of Decision dated March 2, 1993 were sent to your former attorney

Joe H. Tucker, Jr.

A copy of all future correspondence and Court Orders will be sent directly to you at the following address:

Joseph Bennett, Jr.
312 Henderson Ave.
Millville, N.J. 08332

BY THE COURT:
signature
Margaret Gallagher, Deputy to
Judge Joseph L. Mcglynn, Jr.

cc:

Joseph Bennett, Jr.

Jeffery E. Fleming, Esq.

Steven R. Wall, Esq.

Bradley T. Beckman, Esq.

(ATTACHMENT J-2)

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

United States District Court

Eastern District of Pennsylvania

U.S. Court House

Independence Mall West

601 Market Street

Philadelphia, PA 19106-1797

Attn: Michael E. Kunz, Clerk of the U.S. District Court

Date prepared: 05/01/93

Joseph Bennett v. Independence Blue Cross and Manchester.

USDC for the Eastern District of Pa.

CV No. 92-4249

Re: How long does it take to hand down a decision?

It is my opinion that the EEOC and the Federal Courts are using everything within their power to protect companies from prosecution for fraud and discrimination in the work place.

Note: I have documented dates, telephone calls, meetings, conversations etc. throughout this entire unbelievable experience.

Dear Sir:

FOR THE RECORD:

The only correspondence I have received from the court since filing my complaint July 22, 1992 are:

Notification by mail of the hearing dated September 2, 1992 (Hearing held September 25, 1992).

The judges decision concerning the hearing held September 25, 1992 which I received at the hearing.

Notification by mail of hearing dated November 18, 1992 (Hearing held December 11, 1992).

The only hope that the court has to squash this case and to protect those involved is to allow some statute of limitations to expire that I could not possibly know about without counsel, counsel that the court has willfully released from their contract and responsibilities in this matter.

You are just not going to get away with doing this to me!

I am alive and well. Ignoring this case

as if it did not exist and waiting for me to die is not a tactic that is going to be successful. My family has a history of its members living into their nineties and quitting is a word I don't understand.

The EEOC and the Federal Court of PA. have made every effort to keep the truth from being presented in this case. A case involving FRAUD and AGE DISCRIMINATION by Independence Blue Cross of PA. The tactic used by both the EEOC and the Federal Court is to ignore the case, hoping the I will give up. Facts contained in affidavits and other documents that substantiate the allegations in this case are being ignored.

The actions of the EEOC and the Federal Court have sent a message to employers stating that we don't care what you do to get an employee to sign a contract. Don't worry about committing fraud to convince a employee to sign a contract. If you can get a signed contract, we will do everything within our power to protect you against prosecution for fraud and discrimination.

It is my opinion that the Federal Court of PA ,like the EEOC, is trying to protect these companies against prosecution and to squash this case against IBC and Manchester. This opinion is a result of the following:

Judge Joseph L. McGlynn granted the motion of my attorney to be removed from

the case without reviewing the file. He ignored the information I presented at the hearing and granted the attorneys request solely on the word of the attorney. He granted the motion knowing that I was unable to get another attorney and that it would be very difficult to find another attorney that would work on a contingency basis. I still have not been able to obtain counsel that will work on a contingency basis which is the only arrangement I can afford. What person out of work can pay a lawyer $50,000 to get back his job? I have already spent hundreds of dollars trying to obtain counsel. The events in my case, the precedents set by the courts that protect employers in cases of fraud and discrimination, and the reputation of Judge L. McGlynn have made it impossible

for me to obtain counsel.

Judge Joseph L. McGlynn refused to rule or even acknowledge my motion for appointment of counsel or my request for a meeting to discuss a settlement between the parties in this case. His lack of knowledge of the information I have provided to the court indicates that he did not consider the case important enough to review the file before either of the two hearings before him.

Judge McGlynn acknowledged and acted on the motions of my former attorney and the defendants within weeks of their motions being presented to the courts. Judge McGlynn has treated me with contempt because I am not a lawyer and because of my lack of legal expertise.

In the opinion of lawyers I have consulted, my documents and arguments submitted to the court and defendants, are clear and to the point. Although the are not in the format that would be presented by an attorney, they meet the requirements of the court and substantiate my allegations in the complaint.

I feel I have provided sufficient evidence to the court that leaves no question that this case should be presented to a jury as requested in the complaint. I feel the actions of the court have demonstrated that I can not get fair treatment in this case unless it is decided by a jury.

This case comes down to the following:

(1)

Would anyone 'KNOWING AND VOLUNTARILY' sign a contract that would give an employer the right to discriminate against them? A contract that would allow the employer to fire them and replace them with a younger less qualified person in return for three months salary and benefits.

(2)

Did Independence Blue Cross Management LIE, CREATE FALSE IMPRESSIONS, and WITHHOLD INFORMATION when they administered a contract between the company and the employees they fired on September 27, 1990, Lies, false impression and withheld information that made it impossible for the employee to make an informed decision concerning

entering into a contract with the company? Does signing a contract under these conditions have any barring on the validity of a contract between two parties?

(3)

Did Independence Blue Cross discriminate against its older employees? Was it coincidence that approximately 80% of the fired employees were over 40 years old? Did Independence Blue Cross put into place a sophisticated plan to discriminate against the majority of its older employees months before the firing of 39 employees on September 27, 1990? A plan which included quietly maneuvering many of these older employees into other less critical positions under false pretenses. Positions where the company could later create a false impression

that they were eliminating these positions. A plan which included memos, meetings, and NEWS releases to convince the fired employees that their jobs were being eliminated. Did Independence Blue Cross contact employment agencies to fill these vacated positions only days after employees signed the contract administered by the company? Did IBC eliminate these position or were they filled with younger less qualified people?

(4)

Was Manchester, a company who's primary business involves employment related issues and information, so incompetent that they could not recognize, just from the physical appearance of these people, that IBC was discriminating against its older employees? Was Manchester so

incompetent that they did not understand that misrepresenting the potential of these older employees to find other employment at the same pay and position was supporting the plan by IBC to convince the employees to sign the contract with the company. Did Manchester ignore the obvious so they could benefit from this blatant act of discrimination by IBC.

I am asking the court to hand down a decision in the matter concerning the defendants motion to dismiss. Due to the fact that I am without counsel, I am asking the court to provide that decision in language that can be easily interpreted by a lay person.

In that decision I feel I deserve a clear

explanation of the courts position concerning the validity of a contract where lies, misrepresentation, and withholding of information is involved and a clear explanation of the courts interpretation of what constitutes age discrimination in the work place.

To those who take the time to read this letter, I want to assure you that everything I said is true and is documented in transcripts and other papers submitted to the EEOC and the courts. I am a 53 year old systems analyst who has been devastated by age discrimination by ruthless management, by my treatment at the hands of the EEOC, and by tactics being used by the Federal Court system.

My only goal is to get a fair trial and to present the facts in this case to an un-bias jury. If I loose, I had my chance and that is fine with me, but I, at least, want a chance to be heard by people who are not politically motivated to protect big business.

I certify that I have sent a copy of this letter certified mail, return receipt to the following:

Judge Joseph L. McGlynn, Jr.

Attorney General, Janet Reno

Congressman William Hughes

Senator Bill Bradley

Third Circuit Executive, John P. Hehman

Chief Judge, Louis C. Bechtle

Chief U.S. Magistrate Judge, Tulia Gene Leomporra

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

Sincerely,

Joseph Bennett Jr.

(ATTACHMENT J-3)

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

United States District Court

Eastern District of Pennsylvania

U.S. Court House

Independence Mall West

601 Market Street

Philadelphia, PA 19106-1797

Attn: Michael E. Kunz, Clerk of the U.S. District Court

Date prepared: 05/20/93

Joseph Bennett v. Independence Blue Cross and Manchester,

USDC for the Eastern District of Pa.

CV No. 92-4249

Re: THE ACTIONS OF THIS COURT REFLECTS ON THE CREDIBILITY OF OUR ENTIRE JUSTICE SYSTEM.

Dear Sir:

On May 1, 1993 I wrote to the court asking why it was taking so long for Judge McGlynn to hand down a decision in my case. Because of his actions throughout this proceeding, I suspected that Judge McGlynn's delay in deciding this issue was just another maneuver in behalf of the defendants. I did not believe that he would go so far as to withhold the decisions from me to jeopardize my right to appeal.

On May 12, 1993 I received a letter and MEMORANDUM OF DECISION dated March 2, from IBC's lawyer, Jeffery E. Fleming, telling me that Judge McGlynn notified him months ago of his decisions in the

case. On May 13, 1993, I received a docket that indicates that Judge McGlynn handed down two decisions, one in January and one in March, which he withheld from me. On May 19, 1993 I received a copy of a Memorandum of Decision concerning IBC dated January 13, 1993 also from Mr. Jeffery Fleming. Today is May 20, 1993 and I still have not received any correspondence from the court.

The court had no trouble getting a letter to me concerning the hearing for my lawyers motion to be removed as counsel. The court had no problem getting the written and signed decision of Judge McGlynn at the hearing before I left the court. I received the letter concerning the hearing for the defendants motion for dismissal of the case. From everything I

have seen, there is not one letter or document submitted by the defendants that did not reach me in the months that this case has been before the court.

Please do not insult me by telling me it was a mistake that I did not receive a copy of Judge McGlynn's decisions in January and March when both defendants received these decisions. Maybe one of them could have been lost in the mail, but both, who are you trying to kid? I am required to adhere to strict rules that I certify that everyone concerned in the case receives copies of everything submitted to the court. Do not tell me that a judge is exempt from any rules and he alone can withhold critical information from just the plaintiff in a civil case.

I have only received THREE (8.5 X 11) pieces of paper FROM THE COURT since filing my complaint July 22, 1992. One to notify of the hearing held September 25, 1992, one notifying me of his decision delivered by the court clerk at that hearing, and one to notify me of the hearing held December 11, 1992.

I do not believe that there are no guidelines or rules of ethics that a judge must follow in a civil proceedings.

The only way I feel a judge can get away with such actions is that he knows he will be protected and supported by his peers. This is something to be seen. I have been treated with contempt by Judge McGlynn throughout this entire process and his actions have provided

more support for the defendants than the lawyers for the defendants have provided themselves. The judge, by his actions, made it impossible for me to be represented by counsel. Throughout this entire matter he has advantaged the defendants, and not sending me a copy of the decisions in January and March was for no other purpose then to take away my right to appeal those decisions.

I have provided affidavits and letters to the court substantiating my accusations against the defendants. I have stated in letters to the court that I have a box of additional information and that there are a number of people who can verify the statements and that I intended to call these people as witness at a jury trial. I expected a jury trial, as requested in

the complaint where I would be represented by counsel and could present this evidence and prove my allegations against the defendants. Judge McGlynn turned the hearing held December 11, 1993 into a travesty of justice. A trial without jury or proper representation for me, the plaintiff. A trial where he had already advantaged the defendants by taking away my attorney and has created a threat to any other attorney by his actions in this case and his reputation in matters of discrimination. A reputation that was brought to my attention by almost every attorney I tried to retain. Judge McGlynn has done everything within his power to keep the evidence in this case from being presented to a jury. Evidence which the defendants know can be easily

produced and evidence that I feel Judge McGlynn is convinced I can produce. Judge McGlynn acted as both judge and jury at a hearing which should have required no more than what I had already submitted to the court to make a decision to let it be heard by a jury.

I did not understand that the hearing held December 11, 1993 before Judge McGlynn was going to be my trial without jury or representation. I did not know that, even though I had brought the entire box of letters and other documents to the hearing only for reference, that I had the right to submit that material to the court at that time. I do not believe that even if I know what was happening, that Judge McGlynn would have let me read the documents into the

record. In the transcript of the hearing you will find that Judge McGlynn refused to let me read the single letter I had prepared to be read into the record. A letter that I had to send to the court, after the fact, to make it part of the record of that hearing.

The attitude of the court, that has protected large companies in cases of fraud and discrimination in the past, encourages companies to commit fraud and discrimination because they feel the court system, the political environment, and the precedents set by other decisions will protect them against prosecution. The actions of the EEOC, the Federal Court of PA, and the people who are appointed to administer justice have betrayed the trust of the people and

dishonored the positions they hold. I am embarrassed for them because they no longer know the difference between right and wrong. They play lawyer games of favors, peer support, motions, procedures, political influence, and high finance. They have wallowed so long in legal procedures and politics that they are oblivious to the fact that these are just your everyday hardworking people appearing before them, looking for nothing more than fair treatment. They have made a mockery of our justice system by using their positions to favor those who can afford the high price of justice in their court. The title of Judge should be synonymous with justice, honesty, and compassion, but I have seen nothing that even vaguely resembles justice, honesty, and compassion in the Federal Court of

PA. The justice system is one of the primary representatives of our country and I take personal offense when the unjust actions of the courts, tarnish the credibility of that system.

Let me repeat the statement in my letter to the court dated May 1, 1993.
"YOU ARE JUST NOT GOING TO GET AWAY WITH DOING THIS TO ME".
LET ME ADD THAT, IF THERE IS A JUST DECISION IN THIS MATTER, EMPLOYERS, THE EEOC, AND THIS COURT WILL NEVER BE ABLE TO JOIN TOGETHER AND DO THIS TO ANYONE ELSE AGAIN.

Sincerely,

Joseph Bennett Jr.

I certify that I have sent a copy of this letter to the following attorneys for the defendants certified mail, return receipt to the following:

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

cc:

Third Circuit Executive, John P. Hehman

Chief Judge, Louis C. Bechtle

Chief U.S. Magistrate Judge,

Tulia Gene Leomporra

Judge Joseph L. McGlynn, Jr.

Attorney General, Janet Reno

Congressman William Hughes

Senator Bill Bradley

(ATTACHMENT K-1)

Morgan, Lewis & Bockius

Counselors at law

2000 One Logan Square

Philadelphia, Pennsylvania 19103-69936

Telephone (215) 963-5000

Fax (215) 963-5299

May 7, 1993

VIA CERTIFIED MAIL/

RETURN RECEIPT REQUESTED

RECEIPT NO. P 133 832 125

Joseph Bennett jr.

312 Henderson Avenue

Millville, N.J. 08332

Re. Bennett v. Independence Blue Cross

Civil Action No. 92-CV-4249

Dear Mr. Bennett:

We have received a copy of your May 1, 1993 letter to the clerk. It appears from your letter that you did not receive a copy of the Court's Memorandum of Decision, dated January 13, 1993, granting the Motion to Dismiss of Defendant Independence Blue Cross. Therefore, we have enclosed a copy of the Court's Memorandum of Decision, as well as the Court's Order of January 13, 1993 entering judgment in favor of Blue Cross and against you.

Sincerely,

signature

Jeffrey E. Fleming

Counsel for Defendant Independence Blue Cross

JEF/tmm

Enclosures

cc: The Hon. Joseph L. Mcglynn, Jr.

(w/o encls. - via hand-delivery)

(ATTACHMENT K-2)

Morgan, Lewis & Bockius

Counselors at law

2000 One Logan Square

Philadelphia, Pennsylvania 19103-69936

Telephone (215) 963-5000

Fax (215) 963-5299

May 17, 1993

VIA CERTIFIED MAIL/

RETURN RECEIPT REQUESTED

RECEIPT NO. P 133 832 131

Joseph Bennett jr.

312 Henderson Avenue

Millville, N.J. 08332

Re. Bennett v. Independence Blue Cross

Civil Action No. 92-CV-4249

Dear Mr. Bennett:

We have enclosed a copy of the Courts's January 13, 1993 Memorandum of Decision granting the Motion to Dismiss of Defendant Independence Blue Cross and the Court's Order of the same date entering judgment in favor of Blue Cross and against you. We inadvertently enclosed the Court's Memorandum of Decision and Order as to the Motion to Dismiss of Defendant Manchester, Inc. in our May 7, 1993 correspondence to you.

Sincerely,

signature

Jeffrey E. Fleming

Counsel for Defendant Independence Blue Cross.

JEF/tmm

Enclosures

cc: The Hon. Joseph L. McGlynn, Jr.

(w/o encls. - via hand delivery)

(ATTACHMENT "L")

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

United States District Court

Eastern District of Pennsylvania

U.S. Court House

Independence Mall West

601 Market Street

Philadelphia, PA 19106-1797

Attn: Michael E. Kunz, Clerk of the U.S. District Court

Date: 06/18/93

Appeals court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue

Cross and Manchester,

USDC for the Eastern District of Pa.

CV No. 92-4249

Re: REQUEST FOR EXTENSION OF TIME TO APPEAL THE DECISIONS OF JUDGE JOSEPH L. MCGLYNN Dated January 13, and March 2, 1993.

Dear Sir:

I am requesting an extension of time under the Federal Rules of Appellate Procedures that gives me 180 DAYS FROM THE FINAL DECISION to appeal a decision by the court. I am not a lawyer and do not pretend to have the skills and experience of a lawyer. Number 4(a)(6) looks like the right rule, but I do not expect the court to use my lack of knowledge or access to lawyer information as an excuse to deny me this right if the

number is not the correct number for the rule.

I am asking the court to grant this extension based on the following: (Attachments provided)

1. The court never notified me of the decisions. As of the date of this letter I have not received an official copy of those decisions from the court.

2. My letter dated May 1, 1993 asking why it was taking so long to make a decision in this case.

3. The letter dated May 7, 1993 (RECEIVED MAY 12, 1993) from Mr. Jeffrey E. Fleming, attorney for Independence Blue Cross, indicating that the court had

notified the defendants months ago of the decisions. Included with this letter was a copy of the FINAL DECISION concerning this case which was the MEMORANDUM OF DECISION dated March 2, 1993, concerning the complaint against Manchester Inc., the other defendant in this case.

4. The letter dated May 17, 1993 (RECEIVED MAY 19, 1993) from Mr. Jeffrey E. Fleming, attorney for Independence Blue Cross, indicating that he had sent the wrong MEMORANDUM OF DECISION. Included with this letter was the MEMORANDUM OF DECISION dated January 13, 1993, concerning the complaint against Independence Blue Cross.

5. The letter dated June 3, 1993 from Margaret Gallagher indicating that the

MEMORANDUM OF DECISIONS dated January 13, 1993 and March 2, 1993 were sent to my former attorney Joe H. Tucker Jr who is no longer with the firm of Litvin, Blumberg, Matusow & Young. Mr. Tucker was granted his motion to withdraw as counsel only days after filing the complaint AND WAS NOT THE LAWYER OF RECORD. She did not include a copy of those decisions with the letter.

6. My letter to Margaret Gallagher dated June 6, 1993 indicating that I was having a difficult time believing her excuse for not getting the decisions to me.

7. The fact that on June 18, 1993, on the advice of an attorney, I tried to contact Mr. Joe H. Tucker at the firm of

Litvin, Blumberg, Matusow & Young concerning the letter from Mrs. Gallagher. Mr. Tucker is no longer with the firm. I was transferred to Mary Jane, the secretary for the senior partner, Mr. Young, Mr. Young was Mr. Joe H. Tucker's boss when he worked for that firm. Mary Jane said she could find no record that the firm received a copy of either decision.

Sincerely,

Joseph Bennett Jr.

I certify that I have sent a copy of this letter certified mail, return receipt to P. Douglas Sisk and the attorneys listed below.

Marcia M. Waldron, Senior Staff Attorney,

Appeals Court

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

(ATTACHMENT "M-1")

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 06/04/93 (07/04/93)

Re: My request that the Appeals Court assume responsibility for deciding on my request for extension of time to appeal because of the circumstances and the Judge who denied my request.

Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,
USDC for the Eastern District of Pa.
CV No. 92-4249

Dear Ms. Waldron:

I am enclosing a copy of Judge Joseph L. McGlynn's decision. There was no indication in the letter I received that you were copied on this decision.

The MEMORANDUM from the Court dated June 29, 1993, states that "In view of the pending appeal to the Court of Appeals, it is questionable whether this court has jurisdiction to act on the request." It is my hope that you will look at the

facts carefully and determine that the jurisdiction of acting on this request lies with the Court of Appeals, not with Judge L. McGlynn who has taken every opportunity to advantage the defendants through out this entire matter.

The District Court, in their decision, has ignored their mistakes and the disadvantage they placed on me by these mistakes. I do not feel my request was unreasonable and even considering the fact that I did not know the time to file was reduced from 30 days to 7 days, the appeal was filed only 9 court working days after May 19, 1993, the date noted in the court decision.

I was not surprised that eventually Judge McGlynn would find a way to use a rule to

bury this case. Even with all his experience, he had to resort to withholding information on two occasions which was critical in continuing this complaint. Only after I filed the Appeal did he send the letter stating that he mistakenly sent the decision to the lawyer he released from the case months ago. I believed that it was an honest mistake until I later checked with the firm and they had no record of receiving EITHER decision. Two mistakes, two decisions not received, not believable.

I am not a lawyer, I don't know the rule numbers, and I don't know how to submit a motion that will impress the court. All I have is the documented truth concerning fraud and discrimination by the defendants and that should to be enough

to, at least, get this case before a jury. I feel my correspondence and documents to the court are clear and I should not be required to have them re-worded and re-formatted into a document that looks like a lawyer drafted them. I did submit one document where I used samples as a guide. I left in something about a rule that the lawyers for the defendants jumped on that I really did not understand. I don't feel I should be required to submit documents to the court that I don't fully understand just to meet their formal requirements.

I would ask the Appeals Court to assume the responsibility for deciding whether my request for an extension of time to file the appeal was justified considering the circumstances. I would also ask that

the Appeals Court grant my request to submit the missing document not included on the docket and the additional documents that were in the possession of lawyers looking at the case and not available for submission to the District Court.

All I am asking for is a fair and honest decision based on the facts presented in my letters and documents to the Courts.

Some of the lawyers I contacted expressed interest in the case if I could get the Appeals Court to agree to allow the case to proceed. In any case, I will not give up trying to get JUST treatment in our JUSTICE SYSTEM.

Thank you for your time and consideration in this matter.

Sincerely,

Joseph Bennett Jr.

I certify that I have sent a copy of this letter certified mail, return receipt to P. Douglas Sisk and the attorneys listed below.

Bradley T. Beckman
Beckman & Hunt
2900 One Liberty Place 1650 Market Street
Philadelphia, PA 19103-7301

Jeffrey E. Fleming
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103-6993

(ATTACHMENT "M-2)

ORIGINAL

Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 07/12/93

Re: A COPY OF EVERY DOCUMENT AND LETTER RELEVANT TO THIS COMPLAINT THAT I HAVE AVAILABLE TO ME WITHOUT HAVING ACCESS TO THE DISCOVERY PROCESS. Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,
USDC for the Eastern District of Pa.
CV No. 92-4249

Dear Ms. Waldron:

Letter dated 06/04/93, Re: My request that the Appeals Court assume responsibility for deciding on my request for extension of time to appeal because of the circumstances and the Judge who denied my request, was dated incorrectly. The date that the letter was drafted was 07/04/93. I just noticed the error while I was reading over the letter.

Because I am not sure that I received a copy of all of the documents in the court file and the fact that the docket did not

list all of the documents that I submitted to the court, I am attaching a copy of everything that I have in my possession concerning my complaint. Also included are documents and other material that were not available earlier because they were in the hands of lawyers who I was hoping would take the case. I was hoping that I could obtain the service of a lawyer and he would submit the additional documents and other material in a format that would be more acceptable to the court. Due to the fact that I have been unsuccessful in obtaining counsel, I am submitting this material organized in a way that I feel will be easy for the court to use even though it is not in a format that the court is accustomed to seeing.

I am contacting a law firm that has expressed interest in my case.

Thank you for accepting my appeal. After reviewing the documents I have provided, I have confidence that you will find that my complaint was well founded. If I have the opportunity to use the discovery process, I am sure that additional information supporting my complaint will become available to the court.

I have made every effort to make sure that each copy is a duplicate by counting the pages and reviewing the material. Some of the copies were not very clear, but they would not copy because of the condition of the original. If you or the lawyers receiving this material need a clearer copy of any of the material, I

will try another printer to attempt to make a clearer copy of those specific pages as per the request.

Sincerely,

Joseph Bennett Jr.

I certify that I have hand delivered a copy of this letter and attached documents to P. Douglas Sisk and the attorneys listed below.

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

(ATTACHMENT "N-1)

ORIGINAL Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 08/30/93

Re:

RESPONSE TO ORDER DATED AUGUST 12, 1993.

REQUEST FOR RE-HEARING (EN-BANC)

Appeals Court Third Circuit docket No. 93-1680

Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,
USDC for the Eastern District of Pa.
CV No. 92-4249

Dear Ms. Waldron:

This letter contains arguments for ruling in favor of the re-hearing before all of the judges on the appeals court.

1. The District court failed to supply me with a copy of either decisions from Judge McGlynn knowing that it would reduce the time to file an appeal from 30 to 7 days if and when I became aware the decisions had been handed down.

2. The court was not honest in their statement that they sent the copies of the decisions to my former attorney. I

contacted the firm and they did not receive a copy of either decision. The court did not respond to my letter inquiring about why judge McGlynn was taking so long to rule in this matter until the day I filed my appeal. The letter from the court was drafted the same day I filed my appeal and 30 days after my first inquiry to the court.

3. The attorney for IBC purposely confused the issue by sending me the wrong decision hoping to use up some of the 7 days allowed to file an appeal.

4. The Judge, Court, and the attorney for IBC knew exactly what they were doing concerning these decisions. They knew it was a pretty good bet that a person who is not a lawyer would not know that,

instead of 30 days to file an appeal, he would only have 7 under the rules of this trumped up situation.

5. The Appeals court sent me a copy of an ORDER implying that the decision was made by three judges. There was no indication that any of the judges was familiar with the material submitted by the Staff Attorneys office. After reviewing the material and ORDER, it leaves me with the impression that some clerk filled in some form letters and put it under the nose of one of the judges for a quick ORDER and signature. The document did not contain a single reference to the detailed account of the situation created by the District court and the attorney for IBC concerning the failure of the court to provide a copy of either decision, the

story the court came up with for not providing me with a copy of either decision, the failure of the attorney for IBC to send me a copy of the correct decision in his first letter notifying me that they had received both decisions months before my first inquiry to the court dated May 1, 1993, or the fact that the appeal was filed only a few days after the 7 day time requirement and well within the original requirement of 30 days from date of notification.

6. THE APPEALS COURT IS STATING IN THEIR ORDER THAT THEY AGREE WITH THE DISTRICT COURT THAT I SHOULD BE DEPRIVED OF MY RIGHT TO APPEAL BECAUSE OF THE MISTAKES OF THE DISTRICT COURT AND THE LAWYER FOR ONE OF THE DEFENDANTS. I DISAGREE WITH THE DECISIONS OF BOTH COURTS. THE

MISTAKES OF THE DISTRICT COURT AND THE LAWYER SHOULD NOT DISADVANTAGE ME AND DEPRIVE ME OF MY RIGHT TO APPEAL.

All of the above is documented in letters, and other material already provided to the courts.

Sincerely,

Joseph Bennett Jr.

I certify that I have provided a copy of this letter to the attorneys listed below.

Bradley T. Beckman

Beckman & Hunt

2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103-6993

(ATTACHMENT "N-2)

ORIGINAL Joseph Bennett Jr.

312 Henderson Ave.

Millville, N.J. 08332

Phone 609-825-5388

U.S. Court of Appeals for the Third Circuit

3310 U.S. Court House

601 Market Street

Philadelphia, PA 19106-1790

Attn: Marcia M. Waldron

Date: 09/02/93

Re:

RESPONSE TO ORDER DATED AUGUST 12, 1993, DATE STAMPED AUGUST 31, 1993, RECEIVED SEPTEMBER 2, 1993.

(93-1550)

REQUEST FOR RE-HEARING (EN-BANC)

Appeals Court Third Circuit docket No. 93-1680

Appeals Court Third Circuit docket No. 93-1550

Joseph Bennett v. Independence Blue Cross and Manchester,

USDC for the Eastern District of Pa.

CV No. 92-4249

Dear Ms. Waldron:

I did not notice that the ORDER I received on August 27, 1993 was specific to appeal (93-1680). I thought, as you stated in one of your letters, that 93-1550 and 93-1680 were considered one appeal. My response to the ORDER did not specify appeal (93-1680). Please note (appeal 93-1680) on my response dated

8/30/93 that the response was for ORDER and material dated August 12, 1993, date stamped August 24, 1993, received August 27, 1993. I want to make sure that there is no question concerning my responding to all documents received from the court.

I am attaching my response dated August 30, 1993 for ORDER related to appeal (93-1680) because everything stated in that response applies to the ORDER for appeal (93-1550).

My only additional comment concerning this ORDER is that, as did the ORDER for appeal 93-1680, this ORDER for 93-1550 looks like it was also created during the "sign it" "stamp it" routine for that day.

Sincerely,

Joseph Bennett Jr.

I certify that I have provided a copy of this letter to the attorneys listed below. A copy of the response to Order 93-1680 dated 08/30/93 was not included with the letter to the attorneys as they already have a copy of that letter.

Bradley T. Beckman

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2900 One Liberty Place 1650 Market Street

Philadelphia, PA 19103-7301

Jeffrey E. Fleming

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2000 One Logan Square

Philadelphia, PA 19103-6993

Supreme Court, U.S.
FILED
JAN 7 1994
OFFICE OF THE CLERK

No. 93-985

IN THE
Supreme Court of the United States
OCTOBER TERM, 1993

JOSEPH BENNETT, JR.,
Petitioner,

v.

INDEPENDENCE BLUE CROSS and
MANCHESTER, INC.,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

BRIEF OF RESPONDENT INDEPENDENCE BLUE CROSS IN OPPOSITION

Of Counsel:
MORGAN, LEWIS & BOCKIUS

STEVEN R. WALL *
JEFFREY E. FLEMING
2000 One Logan Square
Philadelphia, PA 19103
(215) 963-4928/5095
Attorneys for Respondent Independence Blue Cross

* Counsel of Record

Dated: January 7, 1994

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

BEST AVAILABLE COPY

COUNTERSTATEMENT OF QUESTIONS PRESENTED

1. Whether the Third Circuit Court of Appeals correctly dismissed Petitioner's appeal in Bennett I as untimely, where it was filed more than 30 days after judgment was entered in the District Court?

2. Whether the Third Circuit Court of Appeals correctly affirmed the District Court's Order denying Petitioner's motion to reopen the time for appeal in Bennett II, where the motion to reopen was untimely under Fed. R. App. P. 4(a)(6)?

PARTIES BELOW

Petitioner Joseph Bennett, Jr. was the Plaintiff in the District Court and the Appellant in the Third Circuit Court of Appeals. Respondents Independence Blue Cross and Manchester, Inc. were the Defendants in the District Court and the Appellees in the Third Circuit Court of Appeals.

Respondent Independence Blue Cross has no parent company. Independence Blue Cross has no subsidiaries or affiliates that have issued shares to the public.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

No. 93-985

JOSEPH BENNETT, JR.,

Petitioner,

v.

INDEPENDENCE BLUE CROSS and MANCHESTER, INC.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

---

BRIEF OF RESPONDENT INDEPENDENCE BLUE CROSS IN OPPOSITION

Respondent Independence Blue Cross ("IBC") respectfully requests that the Court deny the Petition for Writ of Certiorari seeking review of the two judgments of the United States Court of Appeals for the Third Circuit entered on September 20, 1993.

JURISDICTION AND OPINIONS AND JUDGMENTS BELOW

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The judgment of the Court of Appeals for the Third Circuit in *Joseph Bennett, Jr. v. Independence Blue Cross and Manchester, Inc.*, No. 93-1550

("Bennett I"), was entered on August 31, 1993. The judgment of the Court of Appeals for the Third Circuit in *Joseph Bennett, Jr. v. Independence Blue Cross and Manchester, Inc.*, No. 93-1680 ("Bennett II"), was entered on August 24, 1993. The Orders of the Court of Appeals denying rehearing were entered on September 20, 1993.

COUNTERSTATEMENT OF THE CASE

Petitioner Joseph Bennett, Jr. commenced this action by filing a Complaint against Independence Blue Cross ("IBC") and Manchester, Inc. ("Manchester") on July 22, 1992. Mr. Bennett, a former employee of IBC, purported to state claims for relief against IBC and Manchester for civil conspiracy under Pennsylvania law, interference with attainment of employee benefits in violation of Section 510 of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1140, age discrimination in violation of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. §§ 621-34, and sex and race discrimination in violation of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e *et seq.*

On October 8, 1992, IBC moved to dismiss Mr. Bennett's Complaint in its entirety under Rules 12(b)(6) and 56(b) of the Federal Rules of Civil Procedure. IBC argued that Mr. Bennett's claims were barred by the knowing and voluntary General Release that he signed at the time of the termination of his employment in exchange for a severance package from IBC. Additionally, IBC argued that Mr. Bennett failed as a matter of law to state claims for civil conspiracy and interference with attainment of benefits. The District Court granted IBC's Motion on January 13, 1993. The District Court's Order and Judgment granting IBC's Motion was entered on the docket on January 15, 1993.

Due to an administrative error in the Clerk's office of the District Court, Mr. Bennett apparently was not

mailed a copy of the District Court's Order and Memorandum of Decision, although a copy was sent to Mr. Bennett's former counsel. Immediately upon learning that Mr. Bennett was not sent a copy of the District Court's Order and Memorandum of Decision, counsel for IBC sent a copy to Mr. Bennett by certified mail on May 17, 1993. Mr. Bennett received the Order and Memorandum of Decision on May 19, 1993.

On June 3, 1993, without seeking a reopening of the time for appeal, Mr. Bennett filed an untimely Notice of Appeal from the District Court's Order and Judgment granting IBC's Motion to Dismiss. The Court of Appeals docketed Mr. Bennett's appeal as No. 93-1550 ("Bennett I").

By letter of June 18, 1993 to the District Court, Mr. Bennett requested an extension of time in which to appeal. The District Court construed Mr. Bennett's June 18, 1993 letter as a motion to reopen the time for appeal under Rule 4(a)(6) of the Federal Rules of Appellate Procedure. By Order and Memorandum of June 29, 1993, the District Court denied as untimely Mr. Bennett's request for an extension of time in which to appeal.

By letter of July 4, 1993 (incorrectly dated June 4, 1993), Mr. Bennett forwarded a copy of the District Court's June 29, 1993 Order and Memorandum to the Court of Appeals for the Third Circuit. The Third Circuit construed Mr. Bennett's July 4, 1993 letter as a notice of appeal from the District Court's June 29, 1993 Order and Memorandum denying his motion to reopen the time in which to appeal. The Court of Appeals docketed Mr. Bennett's second appeal as No. 93-1680 ("Bennett II").

On August 24, 1993, the Court of Appeals issued an Order in Bennett II summarily affirming the District Court's Order and Memorandum denying Mr. Bennett's motion to reopen the time in which to appeal. On Au-

gust 31, 1993, the Court of Appeals issued an Order in Bennett I dismissing Mr. Bennett's appeal as untimely. Mr. Bennett thereafter sought rehearing on both Orders. On September 20, 1993, the Court of Appeals issued Orders in Bennett I and Bennett II denying Mr. Bennett's petitions for rehearing.

SUMMARY OF REASONS FOR DENYING THE WRIT

The Petition for Writ of Certiorari should be denied because the Court of Appeals correctly dismissed as untimely Mr. Bennett's appeal in Bennett I, and correctly affirmed the District Court's exercise of discretion in not reopening the time to appeal in Bennett II. The decisions of the Third Circuit Court of Appeals present no conflict among the courts of appeals and raise no important question of federal law not settled by this Court. Rather, the Petition seeks only to have the Court review clear, well-settled rules regarding the timeliness of an appeal and a motion to reopen time for appeal. Petitioner's request does not warrant the exercise of the Court's discretionary certiorari review.

REASONS FOR DENYING THE WRIT

I. THE COURT OF APPEALS CORRECTLY DECIDED THAT MR. BENNETT'S NOTICE OF APPEAL IN BENNETT I WAS UNTIMELY BECAUSE IT WAS FILED MORE THAN 30 DAYS AFTER JUDGMENT WAS ENTERED IN THE DISTRICT COURT.

The decision of the Court of Appeals in Bennett I involves a straightforward application of Rule 4(a)(1) of the Federal Rules of Appellate Procedure. Under Rule 4(a)(1), Mr. Bennett had 30 days from January 15, 1993, the date of entry of the judgment in the District Court, to file his notice of appeal. He did not do so, but rather filed a notice of appeal on June 3, 1993. Accordingly, the Court of Appeals in Bennett I correctly dismissed his appeal as untimely.

II. THE COURT OF APPEALS CORRECTLY DECIDED THAT THE DISTRICT COURT DID NOT ABUSE ITS DISCRETION IN DENYING MR. BENNETT'S MOTION TO REOPEN THE TIME FOR APPEAL IN BENNETT II BECAUSE THE MOTION TO REOPEN WAS ITSELF UNTIMELY FILED.

Because Mr. Bennett apparently did not receive a copy of the District Court's Order and Memorandum of Decision within 21 days of its issuance, Mr. Bennett had seven days from May 19, 1993, the date on which he received a copy of that Order, to file a motion to reopen the time to appeal. Rule 4(a)(6) of the Federal Rules of Appellate Procedure states as follows:

> The district court, if it finds (a) that a party entitled to notice of the entry of a judgment or order did not receive such notice from the clerk or any party within 21 days of its entry and (b) that no party would be prejudiced, may, upon *motion filed* within 180 days of entry of the judgment or order or *within 7 days of receipt of such notice*, whichever is earlier, reopen the time for appeal for a period of 14 days from the date of entry of the order reopening the time for appeal.

Fed. R. App. P. 4(a)(6) (emphasis added).

Mr. Bennett failed to file a motion to reopen the time for appeal within the required seven-day period. Instead, on June 18, 1993, he filed a letter with the District Court, which was interpreted as a motion to reopen. The District Court denied the Motion as untimely on June 29, 1993. On appeal in Bennett II, the Third Circuit Court of Appeals correctly determined that the District Court did not abuse its discretion, and summarily affirmed the June 29, 1993 Order.

CONCLUSION

For the foregoing reasons, Respondent Independence Blue Cross respectfully submits that the Petition should be denied.

Respectfully submitted,

Of Counsel:
MORGAN, LEWIS & BOCKIUS

STEVEN R. WALL *
JEFFREY E. FLEMING
2000 One Logan Square
Philadelphia, PA 19103
(215) 963-4928/5095
Attorneys for Respondent Independence Blue Cross

* Counsel of Record

Dated: January 7, 1994

Supreme Court, U.S.
FILED
FEB 4 1994
OFFICE OF THE CLERK

No. 93-985

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1993

JOSEPH BENNETT JR.

PETITIONER

V.

INDEPENDENCE BLUE CROSS AND

MANCHESTER INC.

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE JUDGMENT SUPREME COURT OF THE U.S.

BRIEF OPPOSING REPONDENT'S MOTION TO DENY PETITION

PRO SE

JOSEPH BENNETT JR.
312 HENDERSON AVE.
MILLVILLE, N.J. 08332
PHONE 609-825-5388

11 pp

QUESTIONS PRESENTED

WHILE YOU READ THESE QUESTIONS, PLEASE KEEP IN MIND THAT I AM NOT PRO SE BY CHOICE. I AM PRO SE BECAUSE OF THE REPUTATION, ATTITUDE, AND ACTIONS OF JUDGE JOSEPH MCGLYNN OF THE DISTRICT COURT OF PA.

Question 1.

WAS FEDERAL RULE App. 4(a)(6) ENACTED TO PREVENT UNNECESSARY DELAYS IN COURT PROCEEDINGS? IF NOT, WHAT IS THE PURPOSE OF THE RULE?

Question 2.

DOES THIS COURT FEEL, AFTER LOOKING AT THE DOCUMENTS AND ARGUMENTS PRESENTED, THAT I SUBMITTED MY APPEAL TO THE DISTRICT COURT ON JUNE 3, 1993 RATHER THAN MAY 26, 1993 BECAUSE I WAS TRYING TO DELAY THESE PROCEEDINGS?

Question 3.

DOES THIS COURT BELIEVE THAT THE COURT SENT BOTH DECISIONS TO MY FORMER ATTORNEY IN ERROR WHEN:

a. THE FIRM DID NOT RECEIVE EITHER OF THE TWO DECISIONS OR DID THEY RECEIVE ANY OTHER CORRESPONDENCE FROM THE COURT FROM THE TIME JUDGE MCGLYNN GRANTED THE ATTORNEYS MOTION TO WITHDRAW?

b. SINCE THIS ACTION WAS FILED IN DISTRICT COURT, THE ONLY TWO DOCUMENTS I DID NOT RECEIVE TIMELY FROM EITHER THE COURTS OR THE ATTORNEYS FOR THE DEFENDANTS ARE THE TWO DECISIONS. DO YOU BELIEVE THAT IT IS A COINCIDENCE THAT THE ONLY TWO DOCUMENTS THAT WOULD ACTIVATE RULE App. 4(a)(6) ARE THE ONLY TWO DOCUMENTS I DID NOT RECEIVE?

Question 4.

WAS THE RULE USED BY THE JUDGES TO DENY MY APPEAL USED FOR THE PURPOSE IT WAS INTENDED OR IS THERE A QUESTION OF WHETHER IT WAS USED BY THE JUDGES AND THE DEFENDANTS TO BLOCK THIS VALID COMPLAINT?

Question 5.

DOES THIS COURT FEEL THAT A PRO SE PLAINTIFF SHOULD BE EXPECTED TO KNOW THAT THE TIME TO APPEAL A DECISION WOULD BE REDUCED FROM 30 DAYS TO SEVEN DAYS BECAUSE THE JUDGE DOES NOT NOTIFY THE PLAINTIFF OF HIS DECISIONS?

Question 6.

DO YOU FEEL THAT NOT SENDING THE DECISIONS TO A PLAINTIFF IS AN ACCEPTABLE MANEUVER BY A JUDGE TO TAKE ADVANTAGE OF A PRO SE PLAINTIFF AND TO DISMISS A CASE WHERE THE PLAINTIFF HAS SUBMITTED PROOF OF FRAUD AND DISCRIMINATION.

LIST OF PARTIES AND COURT DOCKET NUMBERS.

THE PARTIES TO THE PROCEEDINGS BELOW WERE:

JOSEPH BENNETT, PETITIONER.

V. INDEPENDENCE BLUE CROSS AND MANCHESTER,

RESPONDENTS.

COURT DOCKET NUMBERS ARE AS FOLLOWS:

COMPLAINT WITH THE EEOC, PHILADELPHIA PA. OFFICE. CHARGE # 170911048

COMPLAINT WITH THE FEDERAL COURT OF THE EASTERN DISTRICT OF PA. DOCKET No. 92-4249.

APPEAL WITH THE FEDERAL COURT OF THE EASTERN DISTRICT OF PA. DOCKET No. 92-1550.

APPEAL TO THE APPEALS COURT OF THE THIRD CIRCUIT, DOCKET No. 93-1680.

REQUEST FOR RE-HEARING FOR APPEALS TO THE APPEALS COURT OF THE THIRD CIRCUIT, No. 93-1550 AND 93-1680.

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Dear Judges of the Supreme Court:

I am not going to quote law. First, because I don't know law and second, because I don't feel that the law is the question to be decided concerning the BRIEF OF RESPONDENT IN OPPOSITION.

The attorneys for the respondents submitted six pages detailing nothing more than rules of the court that were intended to prevent attorneys from delaying due process. An argument that has nothing to do with the facts concerning this case. Attorneys for Independence Blue Cross are trying to use the most questionable actions of the District Court of Pennsylvania and the attorney's for Independence Blue Cross as an argument to the Highest Court of

this Nation. An argument that does not dispute the complaint and has only one purpose, to prevent the truth from being heard. A tactic only equaled by the blatant fraud and discrimination perpetrated by Independence Blue Cross and Manchester Inc.

This BRIEF OF RESPONDENT IN OPPOSITION from the Attorney's for Independence Blue Cross worries me more than any document or action thus far in this proceeding. It demonstrates an arrogance and confidence that leads me to believe that they are expecting the same co-operation and support from the Supreme Court of the United States as they received from the District Court of Pennsylvania.

I am asking the Judges of this Court to

except this poor excuse for an argument for what it is. A ploy to draw attention from the real issues in this matter. An attempt to use a rule of the court to obstruct justice rather than to expedite court proceedings as it was intended.

I have been unable to obtain counsel for the reasons stated in previous correspondence to the court and I haven't fared very well at hearings before the District Court of Pennsylvania because it was me on one side and the Judge and the attorneys for the defendants on the other. In spite of what I have experienced in our courts, I am requesting to appear before this court so that you can know who I am and that I have nothing but the truth to

present to this court.

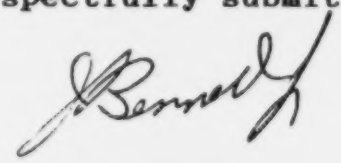
I am asking this court not to place this case back in the District Court of Pennsylvania and to put me at the mercy of the same judges that have used every tactic at their disposal to protect the defendants. I don't know what the alternatives are, but I do know that I don't have a chance of receiving any type of justice in that court without proper counsel, the protection of a higher court, and a jury trial.

I am asking for nothing more than fair treatment by our justice system and I don't feel that is asking very much of a government body who was appointed to administer justice to every individual.

CONCLUSION

I am asking this Court to deny the RESPONDENTS BRIEF OF OPPOSITION for the foregoing reasons and to except my PETITION FOR WRIT OF CERTIORARI submitted to this Court.

Respectfully submitted



Joseph Bennett Jr. PRO SE

Dated: January 30, 1994

I certify that I have provided a copy of to the attorneys listed below.

Bradley T. Beckman
Beckman & Hunt
2900 One Liberty Place 1650 Market Street
Philadelphia, PA 19103-7301

Jeffrey E. Fleming
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2000 One Logan Square
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